

**State of Maine  
Board of Licensure in Medicine  
137 SHS 161 Capitol Street  
Augusta, Maine 04333-0137  
Minutes of June 12, 2012  
INDEX**

I. Call to Order .....	1
II. Complaints	
1. Review Draft Letters of Guidance	
A. CR 12-21 Cressey Brazier, M.D. ....	2
B. CR 11-398 Stephen Spaulding, M.D. ....	2
2. CR 11-522 James A. Iannazzi, M.D. ....	2
3. CR 11-246 Reinaldo de los Heros, M.D. ....	2
4. CR 12-36 .....	2-3
5. & 6. CR 11-029 CR 12-17 Neil C. Robertson, P.A.C. ....	3
7. CR 12-5 .....	3
8. CR 12-3 .....	3-4
9. CR 12-25 .....	4
10. CR 12-24 .....	4
11. CR 12-9 .....	5
12. CR 12-27 .....	5
13. CR 12-28 .....	5
14. CR 12-30 .....	5
15. CR 12-38 .....	5-6
16. CR 12-39 .....	6
17. CR 12-41 .....	6
18. CR 12-48 Alfred J. Riel, M.D. ....	6-7
19. CR 12-56 .....	7
20. CR 12-50 .....	7
21. CR 12-51 .....	7
22. CR 12-52 .....	7
23. CR 12-11 .....	7
III. Assessment & Direction	
24. AD 12-47 (CR 12-99) .....	7
25. AD 12-69 (CR 12-101) .....	8
26. AD 12-70 .....	8
27. AD 12-72 (CR 12-102) .....	8
28. AD 12-74 .....	8
29. AD 12-81 (12-103) .....	8
30. AD 12-87 (CR12-100) .....	8
31. AD 12-98 (CR12-104) .....	8
32. Complaint Status Report (FYI)	
33. Consumer Assistant Feedback (FYI)	
34. Physician Feedback (None)	

IV. Informal Conference(s)	
A. CR 11-136 Albert Aniel, M.D. ....	8-9
B. CR 11-506.....	9
C. CR 11-317 Joel A. Hendler, M.D. ....	9
VI. Board Orders & Consent Agreement Monitoring & Approval	
A. Board Orders (None)	
B. Consent Agreement Monitoring and Approval	
1. Alexandria Nesbit, P.A.-C. ....	9
2. Michael Bell, M.D. ....	9-10
3. Charles Stewart, M.D. (Monitoring agreement approval) .....	10
4. Elizabeth McBride, M.D. (Consent Agreement) [See Appendix A Attached].....	10
5. Patrick S. Carson, P.A.-C (Consent Agreement) [See Appendix B Attached].....	10
VII. Adjudicatory Hearing(s) (None)	
VIII. Remarks of Chairman (None)	
IX. Executive Director's Monthly Report.....	10
A. Complaint Status Report (FYI)	
B. Policy Review- Physician Complaint Response Waiver .....	11
C. Weighted FLEX Policy.....	11
D. PowerPoint – Working With Complainants (Rescheduled)	
X. Medical Director's Report	
A. Draft Guidelines for Healthcare Workers and Blood Borne Pathogens (Maine CDC) (FYI) .....	11
XI. Remarks of Assistant Attorney General (None)	
XII Secretary's Report	
A. List A	
1. M.D. List A Licenses for Ratification .....	11-12
2. P.A. List A Licenses for Ratification.....	12
B. List B Applications for Individual Consideration	
1. Mark Detweiler, M.D. – Tabled for further information. ....	12
2. Glenn A. Deyo, M.D.....	12
3. John Khoury, M.D. - Tabled for further information. ....	12
4. James R. Trettin, M.D.....	13
5. Mark D. Williams, M.D.....	13
C. List C Applications for Reinstatement	
1. List C Applications for Reinstatement (None)	
2. List C Applications for Reinstatement for Individual Consideration (None)	
D. List D Withdrawals	
1. List D (1) Withdraw License Application (None)	
2. List D (2) Withdraw License from Registration.....	13
3. List D (3) Withdraw License from Registration - Individual Consideration (None)	
E. List E Licenses to lapse by operation of law (FYI) .....	13-14
F. List F Licensees requesting to convert to active status (None)	
G. List G Renewal applications for review (None)	
H. List H. Physician Assistant Schedule II Authority Requests For Ratification	
1. Applications to Renew Schedule II Authority .....	14-15
2. Applications for New Schedule II Authority .....	15

XIII. Standing Committee Reports	
A. Special Projects Committee (No report)	
B. Licensure Committee (No report)	
C. Physician Assistant Advisory Committee	
1. Chapter 2 Review.....	15
2. DEAPA Proposal (FYI)	
XIV. Board Correspondence (FYI)	
XV. FSMB POLICIES (FYI)	
XVI. FYI	
XVII. Other Business	
A. MPHP 2011 Annual Report.....	16
XVIII. Adjournment 5:07 p.m.	

State of Maine  
Board of Licensure in Medicine  
137 SHS 161 Capitol Street  
Augusta, Maine 04333-0137  
Minutes of June 12, 2012

**BOARD MEMBERS PRESENT**

Gary R. Hatfield, M.D., M.D., Chairman  
Maroulla Gleaton, M.D., Board Secretary  
David R. Andrews, M.D.  
Cheryl Clukey  
David H. Dumont, M.D.  
Dana Dyer  
David D. Jones, M.D.  
David Nyberg, Ph.D.  
Dr. Barnhart was excused

**BOARD STAFF PRESENT**

Randal C. Manning, Executive Director  
Mark Cooper, M.D., Medical Director  
Jean M. Greenwood, Board Coordinator  
Dan Sprague, Assistant Executive Director  
Tim Terranova, Consumer Assistant  
Maria MacDonald, Board Investigator  
**ATTORNEY GENERAL'S OFFICE**  
Dennis Smith, Assistant Attorney General  
Detective James Gioia

The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S. § 1711-C). The Board moved, seconded, and voted the following executive session times. During the public session, portions of the meeting actions are taken on all matters discussed during executive session. Discussions are projected on a screen by PowerPoint projection.

<u>PUBLIC SESSIONS</u>	<u>PURPOSE</u>
9:00 a.m. – 9:06 a.m.	Call to order
10:49 a.m. – 11:06 a.m.	Recess
12:24 p.m. – 12:26 p.m.	Back in Session
12:26 p.m. – 12:38 p.m.	Recess
12:38 p.m. – 1:24 p.m.	Public Session
1:52 p.m. – 2:06 p.m.	Recess
2:06 p.m. – 2:07 p.m.	Public Session
3:19 p.m. – 4:58 p.m.	Public Session
5:02 p.m. – 5:07 p.m.	Public Session
<u>EXECUTIVE SESSION</u>	
9:06 a.m. – 10:49 a.m.	Complaints
11:06 a.m. – 12:24 p.m.	Informal Conference
1:24 p.m. – 1:52 p.m.	Informal Conference
2:07 p.m. – 3:19 p.m.	Complaints
4:58 p.m. – 5:02 p.m.	Complaints

- I. Call to Order - Dr. Hatfield called the meeting to order at 9:00 a.m.
  - A. Amendments to Agenda
    - Amendment to Complaint Section
      1. AD 12-98

Amendment to Consent Agreements and Monitoring

1. CR 11-509 Patrick S. Carson, M.D.

B. Scheduled Agenda Items

1. 11:00 a.m. (CR 11-136) Informal Conference
2. 12:30 p.m. MPHP 2011 Annual Report
3. 1:00 p.m. (CR 11-506) Informal Conference
4. 3:00 p.m. (CR 11-317) Informal Conference

II. Complaints

1. Review Draft Letters of Guidance

A. CR 12-21 Cressey Brazier, M.D.

Dr. Hatfield moved to approve the letter of guidance to Cressey Brazier, M.D. Dr. Jones seconded the motion, which passed 7-0-0-1 with Dr. Dumont recused.

B. CR 11-398 Stephen Spaulding, M.D.

Dr. Gleaton moved to approve the letter of guidance to Stephen Spaulding, M.D. Dr. Jones seconded the motion, which passed unanimously.

2. CR 11-522 James A. Iannazzi, M.D.

Ms. Clukey moved to order an Adjudicatory Hearing in the matter of James A. Iannazzi, M.D. (CR 11-522) and order a 3286 evaluation. Dr. Dumont seconded the motion, which passed unanimously.

3. CR 11-246 Reinaldo de los Heros, M.D.

Dr. Dumont moved to dismiss CR 11-246 Reinaldo de los Heros, M.D. with a letter of guidance. Dr. Gleaton seconded the motion, which passed 7-1.

In this complaint, a physician is accused of aggressively over treating a patient's psychiatric illness. Review of the record indicates appropriate initial evaluation and frequent reassessments of the patient. Multiple medications were prescribed at each visit which may indeed have been necessary and were explained in the patient's records; however, a simpler medication regime might have been easier to follow and justify.

4. CR 12-36

Dr. Andrews moved to dismiss CR 12-36. Dr. Dumont seconded the motion, which passed unanimously.

The complainant alleges unprofessional care when the doctor stopped his prescription for chronic opiates after a urine drug screen (UDS) that showed no opiates. The complainant

alleges that the UDS was done 4 days after his last dose due to a missed appointment for refill, when a UDS had been planned by the doctor, thus explaining the absence of opiates. The doctor responds that this error in his interpretation of test results was not discovered until an appointment three months later. Apologies were rendered but the doctor declined to restart the opioids due to the length of time the patient had been without opioids with no apparent functional decline.

Review of the patient's chart showed multiple advanced medical problems, a significant history of missed appointments and medical noncompliance, which were clear threats to the patient's own welfare. Several of the patient's claims were not supported by the record. Prescription Monitoring Program (PMP) record review showed uninterrupted opioid refills in spite of a hospitalization several months prior, which should have rendered the UDS valid, if the patient was indeed compliant. The records support exemplary care, attention to universal precautions, and documentation of such.

5. & 6. CR 11-029 CR 12-17 Neil C. Robertson, P.A.C.

In the matters of CR 11-029 CR 12-17, Dr. Jones moved to have AAG Smith contact Neil C. Robertson, P.A.C. through his attorney to request that Mr. Robertson voluntarily cease practicing medicine effective June 15, 2012, and if Mr. Robertson does not agree to voluntarily cease practicing medicine effective June 15, 2012, to issue an order of summary suspension and schedule the matter for an Adjudicatory Hearing. Dr. Dumont seconded the motion, which passed 6-2.

7. CR 12-5

Dr. Andrews moved to dismiss CR 12-5. Dr. Jones seconded the motion, which passed unanimously.

The complainant alleges physician malpractice and refusal to evaluate chronic back pain and order an MRI. The physician asserts that there is no indication for an MRI, no neurologic deficits or physical limitations.

A review of the record reveals that the complainant, an inmate, requested an MRI after an incidental finding of thoracolumbar degenerative disc disease on another study. Although there were multiple encounters, few were due to a primary problem of back pain, and there were no significant or recurrent issues with neural compressive symptoms. The complainant had also had his opioid analgesic prescription withdrawn after being caught diverting such. Non-opioid analgesics and physical therapy were provided. There was no evidence that further imaging studies were indicated.

The record supports the provision of appropriate medical care to the complainant in spite of several behavioral challenges.

8. CR 12-3

Dr. Andrews moved to dismiss CR 12-3. Dr. Dumont seconded the motion, which passed unanimously.

The complainant alleges unprofessional conduct by the doctor in the neurologic evaluation of her 5-year-old son. An electroencephalogram (EEG) study ordered by the doctor was reported verbally to the patient by an unknown staff person as being normal. The formal report stated an abnormality of which the mother was not aware until an appointment with another physician several months later. The physician responds that she disagreed with the EEG report and that she never had the opportunity to discuss the details of her opinion of the study at the follow up visit as the complainant elected to seek care with another neurologist for reasons that are not stated by the complainant.

Record review shows that the EEG study was incomplete due to an equipment failure. There is no indication in the record of how the EEG was reported to the mother. The mother failed to show up for the follow-up visit with the doctor and the second neurologist proceeded with further studies but remained undecided on the diagnosis at the time of the complaint.

Although the communication may have been less than ideal by both the complainant and doctor, it is quite likely that all concerns would have been addressed at the second office visit. There is no suggestion in the record of unprofessional or inappropriate medical care.

9. CR 12-25

Dr. Gleaton moved to dismiss CR 12-25. Dr. Jones seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.

In this case, a patient complains that as part of her anesthesia she was administered medications she had not consented to. The physician explains he met with the patient prior to the procedure and discussed her concerns about medications. He states he felt this discussion was to her satisfaction. One medication in question was noted and processed from a post-operative standing-orders form; however, it was not administered.

In discussing her care with the physician following the procedure, she also complained she was unaware a Certified Registered Nurse Anesthetist (CRNA) would be involved in her care. The physician states the participation of a CRNA in her anesthesia was explained and provides statements from others involved that corroborate this.

10. CR 12-24

Dr. Gleaton moved to order an Informal Conference in the matter of CR 12-24 to be combined with a previously scheduled Informal Conference. Dr. Jones seconded the motion, which passed unanimously.

11. CR 12-9

Dr. Jones moved to dismiss CR 12-9. Dr. Dumont seconded the motion, which passed unanimously.

The patient complains that the physician assistant did not act professionally and did not either examine him or review his records. He also complains that he was accused of requesting opiates and of threatening the physician assistant, both of which the patient denies. Review of the record does not support this complaint. The care was appropriate and there is a report provided by the local police that one of their officers issued a verbal disorderly conduct warning to this patient for behavior in the physician assistant's office.

12. CR 12-27

Dr. Dumont moved to dismiss CR 12-27. Dr. Jones seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.

This complaint involves an allegation that a surgical procedure and its possible complications were not explained to the patient. The patient now complains he did not need the surgery and has unfortunately developed a complication of the procedure. Review of the record shows that the patient did not respond successfully to medical treatment of his condition and was informed of the multiple complications possible from surgery but elected to have the surgery done. The surgical consent has a date that is difficult to read but appears correct, is otherwise accurate, and was signed by the patient. The office records corroborate this. The care appears to have been appropriate.

13. CR 12-28

Dr. Jones moved to dismiss CR 12-28. Dr. Gleaton seconded the motion, which passed 7-1.

The patient complains that his narcotic medicine and pain management was mismanaged by his physician. The physician has subsequently entered into a consent agreement with the Board concerning his narcotic management, which resolves the matter.

14. CR 12-30

Dr. Dumont moved to investigate further CR 12-30. Dr. Jones seconded the motion, which passed unanimously.

15. CR 12-38

Mr. Dyer moved to dismiss CR 12-38. Dr. Jones seconded the motion, which passed unanimously.

The complainant, who is a nurse practitioner, makes numerous assertions that she was unfairly treated and rejected by the Medical Director and other staff members where she



was employed. The statements submitted clearly show the complainant has an abrasive personality, has made unauthorized staff decisions that are not in her job description, has provided less than an acceptable standard of care, has prescribed narcotics without any monitoring for compliance, and has provided unauthorized care outside the facility. The Director does not refute the complaint that she used profane language toward the complainant nor that she denied the complainant use of physical exercise equipment during the lunch hour.

The level of professional and compliance standards expected by the Director and the Medical Director were reasonable and prudent, but apparently unmet by the complainant.

16. CR 12-39

Ms. Clukey moved to dismiss CR 12-39. Dr. Jones seconded the motion, which passed unanimously.

The patient makes a number of allegations regarding the inadequacy of her care and treatment, which are not substantiated by the medical record. The physician's response to the complaint is reasonable and supported by the medical record.

17. CR 12-41

Dr. Dumont moved to dismiss CR 12-41. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant feels her daughter was misdiagnosed, with the correct diagnosis made the next day by another physician. A review of the record shows a history and examination consistent with the initial diagnosis. It is certainly possible that new abnormalities appeared between the two examinations, based on the natural history of this disease.

18. CR 12-48 Alfred J. Riel, M.D.

Dr. Gleaton moved to dismiss CR 12-48 Alfred J. Riel, M.D. with a letter of guidance. Dr. Andrews seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

A patient complains about the competency of an emergency room physician. The patient presented to the emergency room with pain from a chronic urologic medical issue. She was prescribed an anti-inflammatory medicine rather than an opiate (her primary care physician was consulted and recommended avoiding opiates); however, given this patient's comorbidities and other medications, this was medically contraindicated. The Emergency Room physician acknowledges his error in not reviewing her records carefully. He apologized to the patient and feels he has learned from this mistake. The Board's guidance will be that the physician review records carefully, take a thorough patient history and prescribe responsibly in the future.

19. CR 12-56

Dr. Gleaton moved to dismiss CR 12-56. Dr. Dumont seconded the motion, which passed unanimously.

A patient complains about the medical competency of a primary care physician who was rendering treatment. The patient complains that her chronic pain was not being treated adequately. The physician responded with appropriate suggestions for her chronic pain problem, but the patient was not committed to or compliant with conservative non-opiate recommendations. The patient's co-morbidities make narcotic treatment a poor medical choice. The physician's care was reasonable, appropriate, and included behavioral medicine intervention. The situation is made more difficult given this patient's unstable personal life.

20. CR 12-50

Dr. Dumont moved to order an Informal Conference in the matter of CR 12-50. Dr. Jones seconded the motion, which passed unanimously.

21. CR 12-51

Ms. Clukey moved to investigate further CR 12-51 and to order a 3286 evaluation and an outside review. Dr. Jones seconded the motion, which passed unanimously.

22. CR 12-52

Dr. Jones moved to investigate further CR 12-52. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Dumont recused.

23. CR 12-11

Dr. Andrews moved to investigate further CR 12-11. Dr. Dumont seconded the motion, which passed unanimously.

III. Assessment & Direction

24. AD 12-47 (CR 12-99)

Dr. Dumont moved to issue a complaint for an allegation of fraud and deceit in the practice of medicine in the matter of AD 12-47. Dr. Nyberg seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

25. AD 12-69 (CR 12-101)

Dr. Nyberg moved to issue a complaint in the matter of AD 12-69 and direct staff to investigate further according to the recommendations of the outside reviewer. Dr. Jones seconded the motion, which passed unanimously.

26. AD 12-70

Dr. Jones moved to file AD 12-70. Dr. Gleaton seconded the motion, which passed unanimously.

27. AD 12-72 (CR 12-102)

Dr. Jones moved to issue a complaint in the matter of AD 12-72. Dr. Dumont seconded the motion, which passed unanimously.

28. AD 12-74

Dr. Gleaton moved to file AD 12-74. Dr. Nyberg seconded the motion, which passed unanimously.

29. AD 12-81 (12-103)

Dr. Jones moved to issue a complaint in the matter of AD 12-81. Dr. Gleaton seconded the motion, which passed unanimously.

30. AD 12-87 (CR12-100)

Dr. Jones moved to issue a complaint in the matter of AD 12-87 and order a 3286 evaluation. Dr. Nyberg seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

31. AD 12-98 (CR12-104)

Dr. Gleaton moved to issue a complaint in the matter of AD 12-98 and order a 3286 substance abuse evaluation. Dr. Dumont seconded the motion, which passed 7-0-0-1 with Dr. Nyberg recused.

32. Complaint Status Report (FYI)

33. Consumer Assistant Feedback (FYI)

34. Physician Feedback (None)

IV. Informal Conference(s)

A. CR 11-136 Albert Aniel, M.D.

Dr. Jones moved to order an adjudicatory hearing in the matter of CR 11-136 Albert Aniel, M.D. with instructions to the Board's legal counsel regarding a consent agreement for monitoring. Dr. Gleaton seconded the motion, which passed unanimously.

B. CR 11-506

Dr. Andrews moved to dismiss CR 11-506. Dr. Jones seconded the motion, which passed unanimously.

The physician provided urgent care to a patient who was experiencing severe post-operative pain. The patient had a substantial history of opioid addiction although she had been in recovery for a number of months. After verbal consultation with colleagues, the physician prescribed fentanyl patches for management of pain. The patient was discharged and was found deceased the next morning. The medical examiner determined the cause of death to be opioid toxicity.

Further investigation revealed the physician to have engaged in self-education and a change in her practice as a result of this case. The physician acknowledged the adverse roles that her incomplete drug knowledge and somewhat naïve sympathy for the patient played in the outcome, and was appropriately candid and sincere in accepting responsibility for her role in this unfortunate case.

C. CR 11-317 Joel A. Hendler, M.D.

In lieu of an informal conference, Dr. Hendler submitted additional information. After review, Dr. Dumont moved to order an Adjudicatory Hearing with instructions to the AAG to offer a consent agreement for surrender of his license for health reasons. Dr. Gleaton seconded the motion, which passed unanimously.

V. Minutes of May 8, 2012

Dr. Nyberg moved to approve the May 8, 2012 minutes. Dr. Jones seconded the motion, which passed unanimously.

VI. Board Orders & Consent Agreement Monitoring & Approval

A. Board Orders (None)

B. Consent Agreement Monitoring and Approval

1. Alexandria Nesbit, P.A.-C.

Dr. Jones moved to table Ms. Nesbit's request for approval of a workplace monitor. The Board will await appropriate documentation of her proposed providers. Mr. Dyer seconded the motion, which passed unanimously.

2. Michael Bell, M.D.

Board staff received a request from Dr. Bell asking for several changes to his Consent Agreement. Dr. Bell is requesting the Board approve a change to his current drug screening, which is currently done by urine testing weekly since June 2008. Dr. Bell asks the Board to consider quarterly hair/nail testing without urine screens. However, he would be happy to accept any reduction in drug screening the Board is willing to provide.

Secondly, Dr. Bell is requesting the Board make a change to his meeting schedule with Dr. Publicker from monthly to every three (3) months. The Board approved Dr. Bell to see Dr. Publicker on a monthly basis for counseling at the April 2009 Board meeting.

Dr. Nyberg moved to approve Dr. Bell's meetings with Dr. Publicker every three months. Dr. Jones seconded the motion, which passed 7-0-0-1 with Dr. Dumont recused.

Dr. Nyberg moved to table Dr. Bell's request to consider quarterly hair/nail testing without urine screens pending further research by the Board. Dr. Jones seconded the motion, which passed 7-0-0-1 with Dr. Dumont recused.

3. Charles Stewart, M.D. (Monitoring agreement approval)

Dr. Dumont moved to approve the proposed monitoring agreement for Dr. Stewart. Dr. Jones seconded the motion, which passed unanimously.

4. Elizabeth McBride, M.D. (Consent Agreement) [See Appendix A Attached]

Dr. Gleaton moved to approve the Consent Agreement in the matter of Elizabeth McBride, M.D. Dr. Jones seconded the motion, which passed unanimously.

5. Patrick S. Carson, P.A.-C (Consent Agreement) [See Appendix B Attached]

Dr. Jones moved to approve a Consent Agreement in the matter of Patrick S. Carson, P.A.-C. Dr. Nyberg seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.

VII. Adjudicatory Hearing(s) (None)

VIII. Remarks of Chairman (None)

IX. Executive Director's Monthly Report

The Board accepted the report of the Executive Director.

A. Complaint Status Report (FYI)

## B. Policy Review- Physician Complaint Response Waiver

Dr. Jones moved to accept the Physician Complaint Response Waiver Policy as edited. Ms. Clukey seconded the motion, which passed unanimously.

## C. Weighted FLEX Policy

The Licensure Committee moved to approve the Weighted Flex Policy. The motion passed unanimously.

## D. PowerPoint – Working With Complainants (Rescheduled)

## X. Medical Director's Report

## A. Draft Guidelines for Healthcare Workers and Blood Borne Pathogens (Maine CDC) (FYI)

## XI. Remarks of Assistant Attorney General (None)

## XII Secretary's Report

## A. List A

## 1. M.D. List A Licenses for Ratification

Dr. Dumont moved to ratify the physicians on List A for licensure. Dr. Jones seconded the motion, which passed unanimously.

The following license applications have been approved by staff and Board Secretary Maroulla Gleaton, M.D. without reservation:

NAME	SPECIALTY	LOCATION
Avci, Dilek I.	Psychiatry	Bangor
Bohannon, John S.	Emergency Medicine	Houlton
Bourque, Jason	Orthopedic Surgery	Bangor
Brakeley, Rebecca M.	Pediatrics	Lewiston
Chaudhari, Rakesh D.	Diagnostic Radiology	Not Listed
Frey, Paul F.	Internal Medicine / Cardiovascular Disease	Portland
Gaieski, David F.	Emergency Medicine	Bar Harbor
Hodge, William A.	Orthopedic Surgery	Bangor
Johnson Jason M.	Diagnostic Radiology	Not Listed
Kitagawa, Kevin M.	A&C Pathology	Bangor
Li, Xiaoqing	Family Medicine	Not Listed
Meisel, Zachary F.	Emergency Medicine	Bar Harbor
Moore, Elisabeth A. P.	Emergency Medicine	Portland
O'Grady, Denise M.	Pediatrics	Bangor

Patel, Tanay M.	OB/GYN	Waterville
Porras, Mario E.	Orthopedic Surgery	Lewiston
Rana, Adam J.	Orthopedic Surgery	Portland
Regal, Wendy R.	Emergency Medicine	Not Listed
Reilly, Ronald	Emergency Medicine	Lewiston
Santiago, Patrick	Internal Medicine	Not Listed
Siegel, Richard D.	Internal Medicine	Not Listed
Stern, Augustus G.	Ophthalmology	Bangor
Sullivan, Robert-Arne B.	Diagnostic Radiology	Ellsworth
Tomczyk, Jakub M.	Family Practice	Skowhegan
Tourkow, Benjamin A.	Diagnostic Radiology	Not Listed
Weiss, William B.	General Surgery	Augusta
Westover, Jr., Gerald	Internal Medicine	Rockport
Winterer, Jorg C.	Emergency Medicine	Not Listed

## 2. P.A. List A Licenses for Ratification

Dr. Jones moved to ratify the physician assistants on List A for licensure. Dr. Dumont seconded the motion, which passed unanimously.

The following Physician Assistant license applications have been approved by Board Secretary Maroulla Gleaton, M.D. without reservation:

NAME	LICENSE	PSP	LOCATION
Toni Hays, P.A.-C	Inactive	None	None
Audie Horn, P.A.-C	Active	Robert La Morgese, M.D.	Houlton
Kathy Long, P.A.-C	Inactive	None	None
Meghan McNally, P.A.-C	Inactive	None	None
Tracy Tischler, P.A.-C	Inactive	None	None
Rebecca White, P.A.-C	Inactive	None	None
Stephanie Stelton, P.A.-C	Inactive	None	None
Kay Nash, P.A.-C	Inactive	None	None
Christopher Garner, P.A.-C	Active	David Burke, M.D.	Bangor
Brent Albright, P.A.-C	Inactive	None	None
Kristin Fox, P.A.-C	Inactive	None	None

## B. List B Applications for Individual Consideration

1. Mark Detweiler, M.D. – Tabled for further information.
2. Glenn A. Deyo, M.D.

The Licensure Committee moved to approve the license application of Glenn A. Deyo, M.D. The motion passed 7-0-0-1 with Dr. Dumont recused.

3. John Khoury, M.D. - Tabled for further information.

## 4. James R. Trettin, M.D.

The Licensure Committee moved to approve an educational certificate for James R. Trettin, M.D. The motion passed unanimously.

## 5. Mark D. Williams, M.D.

The Licensure Committee moved to approve the license application of Mark D. Williams, M.D. The motion passed unanimously.

## C. List C Applications for Reinstatement

1. List C Applications for Reinstatement (None)
2. List C Applications for Reinstatement for Individual Consideration (None)

## D. List D Withdrawals

1. List D (1) Withdraw License Application (None)
2. List D (2) Withdraw License from Registration

Dr. Jones moved to approve the physicians on List D (2) to withdraw their licenses from registration. Dr. Andrews seconded the motion, which passed unanimously.

The following physicians have applied to withdraw their licenses from registration.

<u>NAME</u>	<u>LICENSE NO.</u>
Eldredge, David	MD9376
Gangolli, Vinodkumar	MD11371
Hendler, Howard	MD7751
O'Regan, Neil	MD15364
Sevinor, Sheldon	MD13966
Sheftel, Theodore	MD13673
Totten, Mary Anne	MD16590

3. List D (3) Withdraw License from Registration - Individual Consideration (None)

## E. List E Licenses to lapse by operation of law (FYI)

The following licenses lapsed by operation of law effective June 7, 2012.



NAME	LICENSE NO.
Antonio, Corazon	MD14592
Assefi, Iraj	MD5725
Atherton, Michael	MD16029
Berman, Paul	MD17378
Black, Robert	MD18384
Blumin, David	MD12008
Crane, Jean	MD18368
DeGuzman, Julieta	MD11357
Dressell, Brian	MD18215
Fakier, David	MD17279
Finlayson, Norris	MD14390
Frederick, Claire	MD16359
Gary, Nader	MD7359
Jones, Robert	MD8067
Ladi, Larry	MD17523
Macias, Enrique	MD17973
Mailepors, Harold	MD7036
Martin, Carolyn	MD18482
Martin, Ronald	MD13072
Mehta, Rahul	MD16803
Musgrave, Steven	MD13690
Parisien, Robert	MD16463
Passero, Philip Jr.	MD13650
Rangineni, Sumathi	MD18118
Robinson, Hugh	MD4678
Rosol, Richard	MD16128
Schumacher, Steven	MD17266
Spielberg, Joel	MD8195
Sullivan, Harold	MD11543
Sze, Maureen	MD8728
Tortorella, David	MD17614
White, Jonathan	MD13388
Williams, Susan	MD16933

F. List F Licensees requesting to convert to active status (None)

G. List G Renewal applications for review (None)

H. List H. Physician Assistant Schedule II Authority Requests For Ratification

1. Applications to Renew Schedule II Authority

Dr. Jones moved to ratify Dr. Gleaton's approval of renewal for Schedule II prescribing authority for the following physician assistants. Dr. Dumont seconded the motion, which passed unanimously.

The following requests for renewal of Schedule II prescribing authority have been approved by the Board Secretary Maroulla Gleaton, M.D.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Erin Bateman, P.A.-C	John C. Baker, M.D.	Newport
Gretchen Gehrke, P.A.-C	John C. Baker, M.D.	Newport
Wendy Johnston, P.A.-C	David Johnson, M.D.	Biddeford
Beverly Wood, P.A.-C	David Strassler, M.D.	Biddeford
Nathan Hayes, P.A.-C	Andrew Dionne, M.D.	Waterville
Kevin Quigley, P.A.-C	Allan Ingraham, M.D.	Lewiston

## 2. Applications for New Schedule II Authority

Dr. Jones moved to ratify Dr. Gleaton's approval of Schedule II prescribing authority for the following physician assistants. Dr. Dumont seconded the motion, which passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by the Board Secretary Maroulla Gleaton, M.D.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Julia Barrett, P.A.-C	Robert Gordon, M.D.	Fairfield
Daniel Dorsky, P.A.-C	Linda Glass, M.D.	Lewiston
Tracie Hammond, P.A.-C	John Bradford, M.D.	Bangor
Amy Williamson, P.A.-C	Lindsey Kerr, M.D.	Bangor
Jude Tardy, P.A.-C	Michelle Toder, M.D.	Bangor
Matthew Vieira, P.A.-C	Konrad Barth, M.D.	Scarborough
Travis Chapin, P.A.-C	James Mullen, M.D.	Brunswick

## XIII. Standing Committee Reports

### A. Special Projects Committee (No report)

### B. Licensure Committee (No report)

### C. Physician Assistant Advisory Committee

#### 1. Chapter 2 Review

Dr. Jones moved to accept the PA Advisory Committee's recommendation to reinsert the temporary license portion back into the Chapter 2 rules being prepared for rulemaking and to modify the language to allow a total of 1 year for the temporary PA license. Dr. Gleaton seconded the motion, which passed unanimously.

#### 2. DEAPA Proposal (FYI)

XIV. Board Correspondence (FYI)

XV. FSMB POLICIES (FYI)

XVI. FYI

XVII. Other Business

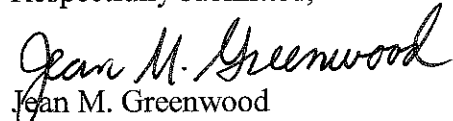
A. MPHP 2011 Annual Report

Lani Graham, M.D., MPH, Medical Director, Andrew Maclean, Esq., Cathryn Stratton, Systems Manager, and Amy Tardy, MS Case Manager from the Medical Professional's Health Program presented their annual report to the Board.

XVIII. Adjournment 5:07 p.m.

Dr. Nyberg moved to adjourn. Dr. Andrews seconded the motion, which passed unanimously.

Respectfully submitted,

  
Jean M. Greenwood  
Board Coordinator

# APPENDIX A

## STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

IN RE:	)	
ELIZABETH A. MCBRIDE, M.D.	)	CONSENT AGREEMENT
Complaint No. CR10-471	)	FOR DISCIPLINE, LICENSE
	)	RESTRICTION & PROBATION
	)	

This document is a Consent Agreement For Discipline, License Restriction and Probation, effective when signed by all parties, regarding discipline imposed upon and the issuance of an active conditional license to practice medicine in the State of Maine to Elizabeth A. McBride, M.D. The parties to this Consent Agreement are: Elizabeth A. McBride, M.D. ("Dr. McBride"), the State of Maine Board of Licensure in Medicine (the "Board") and the Maine Office of the Attorney General.

### STATEMENT OF FACTS

1. The Board first issued Dr. McBride a medical license on July 14, 1999. Dr. McBride specializes in Otolaryngology.
2. On October 12, 2010, the Board reviewed information regarding:
  - a. Dr. McBride's response, and correspondence and interactions with the board staff regarding Complaint No. CR10-260, including: Dr. McBride's statements to Board staff on August 18, 2010, indicating that she had failed to respond to the complaint because she had "forgotten" about the complaint was "on medical leave" and would provide a response in a "day or two;" Dr. McBride's statements to Board staff on September 17, 2010, indicating that she had failed to respond to the complaint due to personal family issues, illness, and "leave of absence from work" and that her physician recommended that she go away for the weekend so that she did not suffer a nervous breakdown.
  - b. Information from Dr. Harry J. Richter, M.D., Dr. McBride's then-husband and medical partner at Maine Otolaryngology Surgery Associates (MOSA), that Dr. McBride suffered from physical and mental conditions that affected her memory and behavior, including: Overdosing on medication requiring hospitalization and possible brain damage; having a diagnosis of psychosis and personality disorder; alcoholism; failing to show up for scheduled surgical procedures; being arrested for Operating Under the Influence; having memory deficits; kicking in the examining room door while patients were present; being unable to work (i.e. practice medicine) as a result of physical or mental conditions; and requesting Ambien from her physician husband.

- c. Information from a physician, Benjamin Mailloux, M.D., that alleged Dr. McBride: had been inappropriately prescribing narcotic medications to RW and his mother, LB, who was a patient of Dr. Delahanty; had not been providing medical services at Waldo County General Hospital for several months, and he was unaware that Dr. McBride was providing medical services elsewhere. In addition, Dr. Mailloux had refused to continue providing patient RW with narcotic medications due to concerns about the results of urine drugs screens, requests for early refills, and RW's failure to show for medical appointments.
- d. Information from the Prescription Monitoring Program (PMP) that indicated that Dr. McBride prescribed over 1,000 tablets of narcotics to RW in a 30-day period between August 24, 2010 and September 16, 2010, during the period that Dr. McBride reported to board staff that she was on medical leave from work. According to the PMP information, Dr. McBride prescribed the following opiates/narcotics to RW in the following amounts on the following dates:

July 12, 2010 – Oxycodone/APAP 10-325mg	#300 (25 days supply)
July 16, 2010 – Hydrocodone/APAP 7.5-325mg	#300 (38 days supply)
July 22, 2010 – Hydrocodone/APAP 10-660mg	#300 (37 days supply)
Aug 2, 2010 - Oxycodone 30mg	#160 (13 days supply)
Aug 9, 2010 - Oxycodone 30 mg	#160 (13 days supply)
Aug 13, 2010 – Oxycodone 30 mg	#200 (13 days supply)
Aug 18, 2010 – Oxycodone 30mg	#200 (16 days supply)
Aug 23, 2010 – Oxycodone/APAP 10-325mg	#25 (6 days supply)
Aug 24, 2010 – Oxycodone 30mg	#200 (13 days supply)
Aug 28, 2010 – Oxycodone 30mg	#200 (17 days supply)
Sep 2, 2010 - Oxycodone 30mg	#250 (21 days supply)
Sep 4, 2010 - Endocet 10-325mg	#20 (3 days supply)
Sep 4, 2010 – Oxycodone/APAP 10-325mg	#20 (3 days supply)
Sep 7, 2010 <sup>1</sup> – Oxycodone 30mg	#200 (16 days supply)
Sep 7, 2010 <sup>2</sup> – Hydrocodone/APAP 10-325mg	#20 (3 days supply)
Sep 10, 2010 – Oxycodone 30mg	#250 (21 days supply)
Sep 15, 2010 – Oxycodone 30mg	#32 (2 days supply)
Sep 16, 2010 – Oxycodone 30mg	#250 (7 days supply)

- e. Information received from Maine Otolaryngology Associates that: Dr. McBride was currently on medical leave from the medical practice (i.e. not

<sup>1</sup> Dr. McBride denied writing this prescription, and it was later determined that it was forged by LB.

<sup>2</sup> Dr. McBride denied writing this prescription, and it was later determined that it was forged by LB.

seeing patients in the office), and that she had not seen any patients in that practice since June 16, 2010; RW was not a patient of that medical practice; Dr. McBride had been prescribing the following opiates/narcotics to LB, who was not a patient of that medical practice, on the following dates:

July 12, 2010 – Percocet #200  
Aug 31, 2010 – Hydrocodone #100 (w/2 refills)  
Sep 6, 2010 – Hydrocodone #230  
Sep 7, 2010 – Lortab #250

- f. Information received from the Department of Motor Vehicles and the Belfast District Court that on July 21, 2010, Dr. McBride was convicted for Operating Under the Influence.

Following its review of the foregoing information, the Board voted to initiate a complaint against Dr. McBride's Maine medical license pursuant to 32 M.R.S. § 3282-A. The Board docketed the complaint as CR10-471, and sent it to Dr. McBride for a response. In addition, the Board sent a subpoena to Dr. McBride for the production of the medical records of RW and LB. Based upon this same information, the Board also voted to summarily suspend Dr. McBride's Maine medical license pursuant to 5 M.R.S. § 1004(3) based upon the imminent jeopardy that her continued practice of medicine posed to the public.<sup>3</sup> The Board scheduled an adjudicatory hearing regarding this complaint on November 9, 2010. In addition, the Board ordered that Dr. McBride undergo a psychiatric evaluation pursuant to 32 M.R.S. § 3286.

3. On October 20, 2011, the Board's Investigator met with LB and RW. According to the Board Investigator's report, RW stated that Dr. McBride and his mother, LB, were friends. RW stated that his mother, LB, had "grabbed" one of Dr. McBride's prescription forms, and that LB was hooked on pills from getting too many from Dr. McBride. Both LB and RW stated that Dr. McBride saw them at her home, never in her medical practice. According to LB, Dr. McBride examined her, but the visits "were not recorded." According to RW, he signed a pain contract. Both LB and RW asserted that Dr. McBride owed them money. LB admitted that she had forged two prescriptions using Dr. McBride's prescription blanks in order to obtain controlled drugs for herself because she was "desperate."

4. On October 22, 2010, the Board received a request from Dr. McBride to continue the adjudicatory hearing due to a previously scheduled surgical procedure and recuperation period. The Hearing Officer continued the adjudicatory hearing with the provision that Dr. McBride's Maine medical license would remain under suspension.

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<sup>3</sup> Dr. McBride's medical license has remained suspended since that time, a period of approximately 18 months.

5. On October 27, 2010, the Board received a copy of the complete medical records for RW and LB on file with MOSA. The medical records for LB consisted only of a patient registration, insurance information, and self-reported health history dated July 1, 2010. No medical records were provided regarding the narcotic medications that Dr. McBride prescribed to LB on July 12, 2010, August 31, 2010, September 6, 2010, and September 7, 2010. The medical records for RW consisted only of:

- a. An unsigned electronic entry dated June 28, 2010, which indicated that RW saw Dr. McBride over the weekend and was given drug samples and a CT scan requisition. According to the electronic record, MOSA staff attempted to contact patient RW to schedule with CT scan on June 29, 2010 and July 8, 2010. The record also indicated that patient RW called MOSA and indicated that he did not want to schedule the CT scan at that time.
- b. A Waldo County General Hospital Imaging Department Requisition form signed by Dr. McBride dated June 24, 2010 for a "limited sinus scan" for "C. Sinusitis."
- c. A slip entitled "Medication Samples" dated June 24, 2010, indicating that four sample medications were provided to patient RW by "Dr. EAM/Dr. HUR."
- d. A patient registration, insurance information, and self-reported health history dated July 1, 2010.

No medical records were provided regarding the narcotic medications that Dr. McBride prescribed to RW on eighteen (18) occasions between July 12, 2010 and September 16, 2010.

6. On January 3, 2011, the Board received a written response to complaint CR10-475 from Dr. McBride. In her response, Dr. McBride explained that she had been suffering from chronic physical and emotional stressors, including chronic pain and a controlling and abusive marriage to Harry J. Richter, M.D. Dr. McBride denied many of the allegations made by Dr. Richter, including a personality disorder, alcoholism, failing to appear for scheduled surgical procedures, memory deficits, or unprofessional behavior in the office. According to Dr. McBride, she took a medical leave of absence from Waldo County General Hospital because she was physically unable to perform surgical procedures due to neck and back problems. However, Dr. McBride stated that her physical limitations did not prevent her from seeing "a small number of nonsurgical, medical patients" and that the narcotic prescriptions that she wrote for LB and RW "were appropriate." Dr. McBride did not provide any medical records regarding either RW or LB with her response. Dr. McBride indicated that she "opened up patient intake forms for both individuals" and asked RW to "sign a simple pain contract."<sup>4</sup> According to Dr. McBride, LB was "an acquaintance for some time," but developed a friendship with LB in 2010,

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<sup>4</sup> Dr. McBride did not provide the Board with the sample written pain contract he allegedly asked RW to sign. In addition, MOSA records for RW did not include a written pain contract.

frequently joining LB “for meals and other social activities.” Dr. McBride was introduced to RW, LB’s son, when he came to live and work with LB. In addition, Dr. McBride hired LW to paint her house. Dr. McBride indicated that eventually both LB and RW sought her assistance with their medical problems. According to Dr. McBride, both LB and RW informed her that they had been under the care of other physicians<sup>5</sup> but could not afford to see them on a “regular basis” and neither had insurance. In addition, RW told Dr. McBride that he didn’t like his physician. According to Dr. McBride in June 2010 she “gave an occasional curbside consult” to LB and RW by listening to their complaints and performing a physical examination.<sup>6</sup> According to Dr. McBride, toward the end of June and into July 2010 she developed a “more frequent physician-patient relationship” with LB and RW. Dr. McBride asserted that although she saw LB and RW outside of her office at MOSA, she had a “valid physician-patient relationship” with LB and RW. Dr. McBride claimed that she “occasionally interacted with other health care professionals, such as ER staff and pharmacies” regarding LB and RW.<sup>7</sup> According to Dr. McBride, she carefully examined LB and RW before writing any prescription, and each prescription she wrote was “for a bona fide, legitimate medical condition.”<sup>8</sup> Dr. McBride denied writing at least 1 prescription for RW, and 1 prescription for LB.<sup>9</sup> In summing up her response, Dr. McBride: admitted that she had physical problems with her neck and back which temporarily disrupted her ability to perform surgery; denied engaging in any substance abuse; denied prescribing narcotics to LB and RW without having a legitimate physician-patient relationship; denied prescribing narcotics to LB and RW without creating or maintaining any medical records but acknowledged that she “should have kept more complete medical records;”<sup>10</sup> and denied prescribing excessive or inappropriate amounts of narcotics to LB or RW. In addition, Dr.

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<sup>5</sup> Prior to prescribing narcotics to LB and RW, Dr. McBride did not contact either of these physicians or request or obtain medical records from them regarding their treatment or prescribing practices. Had Dr. McBride contacted RW’s physician, she would have learned that: (a) the physician was concerned about RW’s use of controlled drugs because RW failed a drug screening test in March 2010 (no detectable presence of benzodiazepines as prescribed; and the presence of Oxycodone that was not prescribed) and requested early refills of his controlled medications; (b) the physician at one point discontinued prescribing narcotics to RW; (c) RW called the physician’s office on June 28, 2010, requesting a prescription for narcotics, which was refused because RW had not had labs done and failed to appear for his last scheduled appointment; and (d) the physician had been prescribing to RW Hydrocodone-Acetaminophen 7.5-750 mg, 120 tablets – 1-2 by mouth four times a day. According to records obtained by the Board, Dr. McBride issued to RW a prescription dated June 27, 2010 for Vicodin (hydrocodone and acetaminophen) 10/325 mg, 300 tablets – 6 by mouth four times a day.

<sup>6</sup> Dr. McBride did not indicate that she created any medical records from these curbside consults.

<sup>7</sup> Dr. McBride did not identify who the medical professionals/pharmacists were, when she had contact with them, or why. According to pharmacy records and interviews of pharmacy personnel by Board investigators, multiple pharmacists had concerns regarding Dr. McBride’s prescribing of narcotics to RW, including the large number of narcotics and early refills.

<sup>8</sup> Dr. McBride did not identify the medical condition(s) for which the prescriptions were issued, and produced no medical records of her examinations and findings.

<sup>9</sup> LB admitted to Board investigators to forging 2 prescriptions using blank prescriptions that were attached to a prescription given to her by Dr. McBride.

<sup>10</sup> Dr. McBride did not elaborate on why her medical records were not complete.



McBride indicated that she was then physically able to practice surgical medicine following her own successful neck/back surgery.

7. On January 5, 2011, the Board received the report of the psychiatric evaluation of Dr. McBride. Although the report determined that Dr. McBride did not have any cognitive deficits or formal thought disorders, it concluded that Dr. McBride: lacked insight into the reasons for the evaluation; displayed a great deal of problems with boundaries; does not accept personal responsibility for her actions; and displayed – at times – poor judgment. The psychiatrist's impressions included a personality disorder not otherwise specified with significant traits of Narcissistic, Borderline and Dependent Personality Disorders. The evaluation contained recommendations regarding Dr. McBride, including:

- a. Therapy with a board-certified psychiatrist regarding issues of boundaries, ethics, responsibility, and behavior;
- b. Abstinence from alcohol and random monitoring;
- c. An accredited course on medical boundaries and ethics; and
- d. A physician practice monitor.

8. On April 4, 2011, the Board received an outside medical expert opinion/review of Dr. McBride's narcotic prescribing for LB and RW, which indicated that:

- a. The very limited medical records do not support the prescription of opiate/narcotic medications to LB or RW;
- b. It is unclear what diagnosis was being treated with the opiate/narcotic medications;
- c. Dr. McBride's written response to the complaint did not clarify or support the opiate/narcotic prescriptions;
- d. There was no documentation that clarified or supported the opiate/narcotic prescriptions;
- e. The volume and frequency of the opiate/narcotic prescriptions should have raised significant concern about the appropriateness of their use;
- f. Dr. McBride chose to use two different short acting opiates/narcotics, hydrocodone and oxycodone, which are frequently used for short term management of acute postoperative pain and/or with strict supervision in patients with chronic pain conditions;
- g. Dr. McBride prescribed higher potency versions of the short acting opiates/narcotics, in dosages usually reserved for patients who are opiate experienced;
- h. Dr. McBride's choice of dosage and volume of opiates/narcotics prescribed to LB and RW were not supported by the medical records nor Dr. McBride's written response to the complaint;
- i. Dr. McBride violated the medical standard of care by seeing and prescribing narcotics to patients LB and RW at or following "curbside" consults because such conduct is inconsistent with current practice

- guidelines for the management of acute or chronic pain by multiple state societies and specialty boards, including the American Society of Interventional Pain Physicians and the American Pain Society;
- j. Dr. McBride did not have a legitimate physician-patient relationship with LB or RW because: (1) the medical records provided did not indicate a clear physician-patient relationship (other than a simple intake form); and (2) there is no other documentation of evaluations, physical exams, or decision-making;
  - k. Dr. McBride violated the medical standard of care by prescribing opiates/narcotics to LB and RW for the following reasons:
    - (1) Lack of an adequate documented physician-patient relationship;<sup>11</sup>
    - (2) Lack of adequate monitoring of patient compliance;
  - l. Dr. McBride violated the medical standard of care with regard to medical record keeping concerning her treatment of LB and RW.

9. On November 16, 2011, legal counsel for Dr. McBride provided the legal counsel to the Board with a psychiatric evaluation conducted of Dr. McBride on November 9, 2011. Although the report determined that Dr. McBride's cognitive functions were intact, her intelligence probably superior, and her thought processes were well organized, it concluded that:

a. Dr. McBride's "judgment functions are assessed as mixed." According to the evaluator, although Dr. McBride's judgment appears to presently be intact, she exhibited poor judgment in the past, and Dr. McBride's decision to prescribe "narcotics to her friend and her friend's son was a serious lapse of medical judgment." According to the evaluator, Dr. McBride's lapses in judgment appear to have occurred largely after she separated from her husband.

b. Dr. McBride's "insight was somewhat mixed." According to the evaluator, Dr. McBride "had a tendency to minimize or rationalize some of her past behaviors." The evaluator attributed this behavior to "a sense of embarrassment and wish to deny some activities during that time." According to the evaluator, Dr. McBride "exhibited an adequate acceptance of responsibility for past lapses in judgment and expects to avoid such in the future."

In addition, the evaluation indicated that Dr. McBride expressed a clear understanding that her prescription of narcotic medications to LB and RW was "a very poor decision and expresse[d] strong intent never to put herself in that position again. She knows it was medically inadvisable and feels she was 'duped' [by LB and RW]..." According to the evaluator, Dr. McBride "can safely return to the practice of medicine at this point" as she is "not exhibiting symptoms or limitations related to mental/emotional condition, including personality

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<sup>11</sup> This would include an evaluation of the patient including a history and physical exam, a diagnosis for which the underlying treatment is occurring, and the outcome or adverse effects achieved by prescribing the medications.

problems that would pose risk to patients under her care.”

10. Dr. McBride’s Maine medical license was due to lapse on December 31, 2010. However, pursuant to Board policy, her medical license was not allowed to lapse until the conclusion of this open complaint. To date, despite multiple contacts from the Board staff, Dr. McBride has not filed an application to renew her Maine medical license.

11. This Consent Agreement has been negotiated by and between legal counsel for Dr. McBride and the Maine Office of the Attorney General in order to resolve complaint CR10-471 without an adjudicatory hearing. Absent Dr. McBride’s acceptance of this Consent Agreement by signing it, dating it, having it notarized, and returning it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137, on or before June 1, 2012, the Board will resolve this matter by holding an adjudicatory hearing.

12. By signing this Consent Agreement, Dr. McBride waives any and all objections to, and hereby consents to allow the Board’s legal counsel to present this proposed Consent Agreement to the Board for possible ratification. Dr. McBride also forever waives any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

#### COVENANTS

In lieu of proceeding to an adjudicatory hearing the Board and Dr. McBride agree to the following disposition.

13. Dr. McBride admits that with regard to Complaint CR10-471:
- a. The very limited medical records do not support the prescription of opiate/narcotic medications to LB or RW;
  - b. The volume and frequency of the opiate/narcotic prescriptions should have raised significant concern about the appropriateness of their use;
  - c. Dr. McBride violated the medical standard of care by seeing and prescribing narcotics to patients LB and RW at or following “curbside” consults because such conduct is inconsistent with current practice guidelines for the management of acute or chronic pain by multiple state societies and specialty boards, including the American Society of Interventional Pain Physicians and the American Pain Society;
  - d. Dr. McBride did not have a legitimate physician-patient relationship with LB or RW because: (1) the medical records provided did not indicate a clear physician-patient relationship (other than a simple intake form); and (2) there is no other documentation of evaluations, physical exams, or decision-making;
  - e. Dr. McBride violated the medical standard of care by prescribing opiates/narcotics to LB and RW for the following reasons:

- (1) Lack of an adequate documented physician-patient relationship;
- (2) Lack of adequate monitoring of patient compliance;
- f. Dr. McBride violated the medical standard of care with regard to medical record keeping concerning her treatment of LB and RW;
- g. Dr. McBride failed to take responsibility for her conduct in her response to the Board complaint and during her initial psychiatric evaluation, which raised concern regarding her judgment and decision-making.

14. Dr. McBride admits that the violations identified in paragraph 13 above constitute grounds for discipline and the denial of an application to renew her Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F).

15. For the conduct admitted above, Dr. McBride agrees to accept and the Board agrees to issue the following discipline, restrictions and probation:

- a. Accept a nineteen (19) month LICENSE SUSPENSION effective on the date of execution<sup>12</sup> of this Consent Agreement. The license suspension shall be retroactive to October 12, 2010.
- b. Accept a REPRIMAND effective on the date of the execution of this Consent Agreement. As a medical professional, Dr. McBride was responsible for being aware of and complying with accepted standards of care for: the diagnosis and treatment of chronic pain; the establishment of an appropriate physician-patient relationship; and appropriate medical record keeping. Dr. McBride agrees that henceforth she shall meet all standards of care in her medical practice.
- c. Pay a FINE of Five Thousand Dollars and Zero Cents (\$5,000.00) effective on the date of the execution of this Consent Agreement. However, payment of one half (\$2,500) of the fine is suspended so long as Dr. McBride complies with all of the terms and conditions of this Consent Agreement, including timely completion of all requirements and reports to the Board. Dr. McBride shall ensure that she pays the \$2,500 activated portion of the fine within two (2) years following the execution of this Consent Agreement. Dr. McBride shall remit payment of the \$2,500 fine to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137. The fine shall be made payable to "Treasurer, State of Maine." Dr. McBride agrees that, in the event that she fails to meet any of the reporting or other time requirements set out in the conditions of probation of this Consent Agreement (without having requested an extension prior to the due date and having that request granted by the Board), the Board may, in its sole discretion, summarily and without an adjudicatory hearing, "activate" any or all of the amount of the remaining suspended fine. The Board shall notify Dr. McBride in writing of the activation of all or a portion of the suspended fine. Dr. McBride agrees and understands that she must pay the amount of the fine "activated" by

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<sup>12</sup> The term "execution" means the date that the final signature is affixed to this Consent Agreement.

the Board within 30 days of receiving notice that the fine was activated. Payment shall be by cashier's check or money order made out to "Treasurer, State of Maine." In addition, the parties agree and understand that the Board's decision not to "activate" all or a portion of the suspended fine for one instance of noncompliance with a reporting or other time requirement does not constitute a waiver of the Board's right to "activate" all or a portion of the fine regarding a subsequent instance of non-compliance. If Dr. McBride fails to pay an "activated" fine within the 30 days as provided by this section, the Board may "activate" all or a portion of the remaining portion of the "suspended" fine. Any decision by the Board pursuant to this section does not require an adjudicatory hearing and is non-appealable.

d. Investigative Costs. Dr. McBride shall reimburse the Board One Thousand Nine Hundred Forty-Two Dollars and Thirty-Two Cents (\$1,942.32) as the actual costs that the Board incurred for the investigation of this matter. Dr. McBride shall ensure that she makes full payment of reimbursement to the Board within thirty-six (36) months following the execution of this Consent Agreement. Payment shall be made payable to the "Maine Board of Licensure in Medicine," and be remitted to Maria MacDonald, Investigator, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

e. Prescribing Restriction effective on the date of execution of this Consent Agreement. Dr. McBride shall not prescribe any controlled medications (i.e. narcotics, including all opiates and opioids) for the treatment of chronic pain. Dr. McBride may prescribe controlled substances for no more than ten (10) consecutive days to treat acute conditions following her completion of a Board-approved course in opioid prescribing. In addition, to the extent that Dr. McBride prescribes any controlled drugs to patients for acute pain, Dr. McBride shall comply with Board Rule, Chapter 21, "Use of Controlled Substances For Treatment of Pain." In complying with this restriction, Dr. McBride agrees to cooperate with the Board, including permitting the Board or its agent(s) to inspect the medical records of her practice.

f. Practice Restriction effective on the date of execution of this Consent Agreement. Dr. McBride shall restrict her practice of medicine to an office-based, non-surgical medical practice in the specialty of Otolaryngology. This restriction is based upon Dr. McBride's recent surgery on her dominant wrist and hand. Dr. McBride may petition the Board to eliminate or amend this restriction. The Board shall have the sole discretion to: (a) deny Dr. McBride's request; (b) grant Dr. McBride's request; and/or (c) grant Dr. McBride's request in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Dr. McBride's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court. Dr. McBride shall provide the Board with documentary evidence of her physical ability and medical competence to return to the practice of surgical Otolaryngology. The Board may require that Dr. McBride successfully complete a certain number of surgical cases while under the direct supervision of another licensed physician approved by the

Board.

g. Accept a LICENSE PROBATION with conditions for five (5) years, which probation shall commence following the Board's receipt of:

- (i) a completed application for license renewal from Dr. McBride, which must be received by the Board on or before June 1, 2012; and
- (ii) a written notification that Dr. McBride has resumed the active practice of medicine. In complying with this condition, Dr. McBride shall, within 24 hours of resuming the active practice of medicine in any capacity as defined by 32 M.R.S. § 3270, notify the Board in writing of her resumption of her active practice of medicine. A violation of this condition by Dr. McBride shall constitute grounds for discipline, including the suspension or revocation of her license.

Upon receipt of the foregoing materials, the Board staff shall send Dr. McBride written confirmation of its receipt of those materials and the date of the commencement of probation.

h. In the event that Dr. McBride fails to file a completed application for license renewal with the Board on or before June 1, 2012, her Maine medical license shall lapse. Thereafter, Dr. McBride will have to file an application for licensure as a "new applicant" and the Board will have the authority to grant, deny, or grant her application for licensure pursuant to conditions. In the event that Dr. McBride files a completed application for license renewal with the Board on or before June 1, 2012,<sup>13</sup> the Board shall re-issue her medical license subject to the restrictions identified above and with the following specific conditions of probation:

(1) Abstinence. Dr. McBride agrees that she shall completely abstain from the use of any and all Prohibited Substances. "Prohibited Substances" as used throughout this Consent Agreement shall mean: benzodiazepines; sedatives; hypnotics or similar drugs; opiates; alcohol; Fentanyl; morphine, Demerol, Vicodin, Percocet, mood, consciousness or mind-altering substances, whether illicit or not; and all drugs which are dispensed to or prescribed for her by anyone other than a single primary care physician/medical provider approved by the Board pursuant to this Consent Agreement, unless the circumstances constitute a genuine medical or surgical emergency.

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<sup>13</sup> In the event that Dr. McBride files an application to renew her license on or before June 1, 2012, and the Board grants her renewal subject to the terms of this Consent Agreement, Dr. McBride shall again need to file an application to renew her Maine medical license on or before December 31, 2012, the date on which it expires by statute.

(a). Prescription Medication. If any controlled drug is dispensed or prescribed for Dr. McBride for a personal medical condition, Dr. McBride or the Supervising Physician shall notify the Board by telephone and in writing within 48 hours or as soon thereafter as possible. This notice shall be followed by a written summary of all pertinent circumstances. The Board shall be apprised of all continuing pertinent circumstances regarding continued use of the controlled drug, and a written report thereof shall be submitted to the Board.

(b). Future Use of Prohibited Substances Shall Result in Loss of Licensure. Dr. McBride agrees and understands that any reliable evidence of her use at any time in the future, whether in Maine or elsewhere, of any Prohibited Substance, including but not limited to alcohol, benzodiazepines, sedatives, hypnotics, opiates, Fentanyl, morphine, Demerol, shall constitute a violation of this Consent Agreement, which SHALL RESULT IN THE IMMEDIATE, INDEFINITE AUTOMATIC SUSPENSION OF LICENSURE, AND PROOF OF USE MAY RESULT IN PERMANENT REVOCATION OF LICENSURE.

(2). SINGLE PHYSICIAN/MEDICAL PROVIDER. Dr. McBride agrees and understands that, with the sole exception of medications permitted by the Board to be prescribed to her by a Board-approved treating physician/medical provider, she shall only obtain her prescription medication(s) from a single physician/medical provider approved by the Board. Dr. McBride agrees and understands that she will not make any unilateral changes to the medication regimen prescribed for her by her Board approved physician/medical provider. In addition, Dr. McBride agrees that any and all prescriptions for medications that are prescribed to her by her Board-approved physician/medical provider shall be filled by her at a single pharmacy.

(3). SUBSTANCE MONITORING.<sup>14</sup> Dr. McBride understands and agrees that, for the duration of probation, she will undergo some level of substance monitoring to test whether she has used a Prohibited Substance. The monitoring shall be through urinalysis testing and/or blood testing, and any other reliable method which may later be developed and approved by the Board. Dr. McBride irrevocably agrees that the Board and the Maine Department of Attorney General will have full access to all test data and reports. Dr. McBride shall execute any and all releases necessary for the Board and/or the Attorney General to have full access to all data and reports pertaining to her substance monitoring.

(a). Supervising Physician. Dr. McBride shall propose a

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<sup>14</sup> The substance abuse monitoring pursuant to this Consent Agreement may, with the approval of the Board, be performed by the Maine Medical Professionals Health Program or other similar program approved by the Board.

(a). Supervising Physician. Dr. McBride shall propose a Supervising Physician (the "Supervising Physician"), who shall be approved by the Board who shall have Dr. McBride provide urine samples for testing for the presence of Prohibited Substances. Under no circumstances shall Dr. McBride fail to appear and/or provide a urine sample for testing as required by this Consent Agreement.

(b). Process. All urine and/or blood samples shall be handled through legal chain of custody methods. All samples provided shall be analyzed by a certified laboratory, which regularly handles drug monitoring tests. All samples shall be tested for the presence of Prohibited Substances, specifically including but not limited to alcohol.

(c). Frequency of Urine Testing. It is Dr. McBride's obligation to ensure that all the samples are given and tests occur as specified in this Consent Agreement. Testing shall be randomly scheduled. Notwithstanding any other provision of this Consent Agreement, the Board, the Supervising Physician, or the Board's agent may request Dr. McBride to submit to testing at any time. Failure to maintain this schedule or the random nature of the tests shall be cause for suspension, non-renewal or revocation of Dr. McBride's Maine medical license, unless proof of genuine emergent medical circumstances (for Dr. McBride or a patient) exist which warrant less serious disciplinary actions being taken by the Board. For the indefinite period following the execution of this Consent Agreement, Dr. McBride shall provide urine samples for testing for the presence of Prohibited Substances at least twice a month.

(d). Reporting Test Results. It is Dr. McBride's responsibility to ensure that all test results are reported promptly to the Board.

(i). Immediate Report of Positive Test Results. Any test result evidencing any level of a Prohibited Substance, whether by urine or other sample, shall be reported to the Board by telephone and in writing within 24 hours or as soon thereafter as possible.

(ii). Reporting Negative Test Results. Written reports of all tests shall be sent to the Board monthly, together with an explanation of the dates and times samples were provided and tests made, the type(s) of tests made, and the substances tested for (together with detectable levels tested for), and the test results. Dr. McBride shall ensure that all reports are made to the Board in a timely fashion.

(iii). Confidentiality Waived. With regard to the Board and its agents and any process to be pursued by the Board, Dr. McBride hereby waives all claims of confidentiality and privilege with respect to all



tests taken and test results pursuant to this Consent Agreement. Dr. McBride shall execute any and all releases in order for the Board to obtain access to and copies of all urine test results.

(e). Rebuttable Presumption Raised by Positive Test. It is agreed and understood that a test evidencing the presence of any Prohibited Substance, shall raise a rebuttable presumption that such substance was in fact used by Dr. McBride. Such a positive test result shall alone, including any test result showing the presence of ethyl glucuronide, be sufficient to prove the use of the Prohibited Substance by Dr. McBride. Dr. McBride further agrees that the result of the test may be admitted into evidence in any proceeding regarding her Maine medical license, whether before the Board or before a Court of competent jurisdiction. Dr. McBride is hereby advised that the use of alcohol-based hand sanitizers and the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, Dr. McBride agrees to refrain from using alcohol-based hand sanitizers and ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies during the period of probation. In the event that Dr. McBride has a positive screen for morphine, opiates and/or alcohol, Dr. McBride agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter cough or cold medicines shall not constitute a defense to such a positive screen.

(f). Immediate, Indefinite, Automatic Suspension for Positive Test. If any urine or blood test is positive (i.e., in any manner evidences any use of any Prohibited Substance – including a positive result for the presence of ethyl glucuronide, a metabolite of alcohol), then the result shall be the immediate, indefinite, automatic suspension of Dr. McBride's Maine medical license, which shall continue until the Board holds a hearing on the matter, unless the Board, or the Board Secretary and the Department of Attorney General, earlier determine that the report is without merit. The suspension shall become effective at the time that Dr. McBride receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means.

(g). Board Hearing to Determine if Dr. McBride Used Any Prohibited Substance. After receiving a positive report evidencing use by Dr. McBride of any Prohibited Substance, the Board shall investigate the situation, including demanding a response from Dr. McBride. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. McBride and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.

(h). Failure to Maintain Sampling Schedule or Failure to Appear or to Provide Sample. Failure by Dr. McBride: to maintain the sampling schedule; to appear when demanded to provide a sample; or to provide samples upon being demanded to do so shall be dealt with as follows:

(i). Report. If Dr. McBride fails to appear to provide a sample, fails to maintain the sampling/testing schedule, or fails to provide a urine sample, then the Supervising Physician and Dr. McBride must telephone the Board as soon as possible and send to the Board a written report of such failure within 48 hours.

(ii). Second Opportunity to Provide Urine Sample. If Dr. McBride appears when scheduled or ordered, but fails to provide an adequate sample, then with regard to urine, after accurate notation of any and all substances consumed (no substance shall be consumed which might affect the accuracy of the tests to be performed), a second opportunity to provide a urine sample shall be given after a reasonable time. A repeat failure or any refusal shall result in an immediate, indefinite suspension of medical licensure. The suspension shall begin the moment of the occurrence.

(iii). Suspension. An immediate, indefinite suspension of licensure shall result from any failure by Dr. McBride to comply with the mandated schedule of samples, failing to appear to provide a sample, or failing to provide a urine sample after given a second opportunity. The suspension shall begin the moment Dr. McBride actually learns a report has been made or sent to the Board.

(iv). Meeting with Board. Both Dr. McBride and the Supervising Physician shall, at the discretion of the Board, be required to appear before the Board regarding this situation at its next regularly scheduled Board meeting, unless the next meeting is to be held within 15 days of the suspension, in which case they may be scheduled to appear at the subsequent regularly scheduled Board meeting.

(v). Board Action. The Board may order Dr. McBride's Maine medical license reinstated or, if appropriate, may continue the suspension and may set the matter for hearing. The Board shall attempt to hold a hearing within 60 days of the automatic suspension, or as soon thereafter as practicable, at which time it may take such action as it deems appropriate, including without limitation, reinstatement, fines, probation, suspension, non-renewal and revocation.

(i). Amendment of Testing Provisions. After one (1) year of successful compliance with the terms and conditions of probation, Dr. McBride may file a written application with the Board to amend the testing conditions. Upon written application by Dr. McBride to the Board, the Board may amend the above agreed conditions for testing. Amendment of the testing conditions shall be in the sole discretion of the Board and shall be based upon such information as the Board deems pertinent. A decision regarding the amendment of testing provisions may be made by the Board, in its sole discretion, with or without providing a hearing. Any decision by the Board regarding a request to amend the testing conditions is not appealable. The Board can propose Amendment(s), which may or may not be agreed to by Dr. McBride.

(j). Increasing Testing. For good cause shown (i.e., questionable reports or problems with providing samples), the Board can, in its sole discretion, without hearing, unilaterally increase the frequency of testing to the highest levels contemplated by this Consent Agreement, and may also add an additional four random tests per month. Any decision made by the Board pursuant to this paragraph does not require a hearing and is not appealable.

(4) PROFESSIONAL MANAGEMENT.

(a). Mental Health Treatment. Prior to returning to the active practice of medicine, Dr. McBride shall submit for Board approval the name of a licensed psychiatrist with whom Dr. McBride shall consult and counsel for the purpose of working on all issues pertaining to mental health, including Dr. McBride's compliance with this Consent Agreement, which consultations shall be at least twice monthly. Dr. McBride shall not actively practice medicine until the Board has approved a mental health treatment provider pursuant to this provision.

(b). Single Primary Care Physician/Medical Provider. Prior to her return to the active practice of medicine, Dr. McBride shall submit for Board approval the name of a primary care physician/medical provider who shall prescribe all necessary medications for Dr. McBride, and who shall coordinate Dr. McBride's treatment and pharmacological therapy with the Board-approved mental health treatment provider. Such physician/medical provider shall be knowledgeable of Dr. McBride's medical history. The Board shall retain the sole discretion, without hearing, to grant or deny approval of the primary care physician/medical provider proposed by Dr. McBride. Dr. McBride acknowledges that any decision by the Board concerning this issue is not appealable. Dr. McBride shall not actively practice medicine until the Board has approved a primary care physician/medical care provider pursuant to this provision.

(c). Prior Evaluation and Treatment Records. The Board and Dr. McBride agree that Dr. McBride shall execute all releases necessary to permit the transmission and disclosure of all records from previous treatment providers to the Board approved physician/medical provider and Board-approved psychiatrist. In addition, by entering into this Consent Agreement, Dr. McBride expressly consents to the Board's release of any psychiatric evaluations in its possession to her Board-approved psychiatrist and/or her Board-approved physician/ medical provider.

(d). Communication of Treatment Providers. The Board and Dr. McBride agree that all treatment providers involved in her care shall have full communication allowed among themselves, any prior treatment providers and, when requested, with the Board or its agent(s). Dr. McBride waives any privileges concerning such information, reports, records, and communications among her treatment providers and the Board.

(e). Amendment of Aftercare Treatment Requirements. After one (1) year of successful compliance with the terms and conditions of probation, Dr. McBride may file a written application with the Board to amend her substance abuse treatment. The Board shall retain the sole discretion, without hearing, to grant or deny such application. Dr. McBride acknowledges that any decision by the Board concerning this issue is not appealable.

(f). Change of Primary Care Physician/Medical Provider or Treatment Provider(s). If Dr. McBride desires to change her primary care provider/medical provider or treatment provider(s), then she shall make written application to the Board, including among other things a letter regarding her reasons for requesting such change(s) and separate letters from the current primary care physician or treatment provider(s) and the proposed new primary care physician or treatment provider(s) relative to their understanding of the reasons for this request and, to the extent applicable, any concerns they may have. The Board shall retain the sole discretion to grant or deny such application without hearing. Dr. McBride acknowledges that any decision by the Board concerning this issue is not appealable. If the request is denied, nothing precludes Dr. McBride from proposing another primary care physician or treatment provider for approval. In requesting a change of primary care physician or treatment provider, Dr. McBride understands that the Board may inquire into any issues it deems pertinent with any person, including, without limitation, the current primary care physician or treatment provider(s).

(g). Reports from Treatment Providers. Dr. McBride shall ensure that following the commencement of probation the Board-approved treatment provider(s) submit(s) to the Board (a) written report(s) every ninety (90) days regarding: Dr. McBride's compliance with her schedule of meetings; Dr.

McBride's ability to continue practicing medicine; and the prognosis of Dr. McBride's continued recovery. In addition, the treatment providers shall immediately notify the Board in writing whenever: (1) in his/her professional judgment, Dr. McBride poses a potential danger to the health, safety and welfare of patients; or (2) Dr. McBride terminates treatment or is non-compliant with the treatment plan. Dr. McBride hereby waives any privileges concerning such information, reports, records and disclosures to the Board.

(h). Board Investigation. At any time the Board may deem appropriate, the Board or its agent may contact Dr. McBride and/or the Board-approved treatment providers to obtain further information relative to Dr. McBride. In addition, if the Board deems it appropriate, it may directly contact the treatment providers regarding any issues concerning Dr. McBride's treatment. In complying with this requirement, Dr. McBride waives any privileges concerning such information, reports, records and disclosures to the Board. Dr. McBride shall execute any and all releases necessary to enable the Board and/or the Attorney General to communicate directly with her treatment provider(s) and to obtain copies of any and all notes, records, and documentation concerning her treatment.

(5). PRACTICE LOCATION/PHYSICIAN MONITOR.

(a). Medical Practice Setting Locations. During the period of probation, Dr. McBride shall practice medicine only at a location pre-approved by the Board.

(b). Physician Monitor. Prior to her return to the active practice of medicine, Dr. McBride must have a Board-approved practice monitor who shall monitor her medical practice. In complying with this requirement, Dr. McBride shall submit to the Board for its approval the name of a proposed practice monitor, whom the Board has the sole discretion to approve or deny. The monitoring physician must be in direct contact with Dr. McBride and observe her within her medical practice at least once a week, and inform the Board if Dr. McBride demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, ability to concentrate, absenteeism, substance abuse, incompetence, unprofessionalism or any other concerns. The monitoring physician shall report such information to the Board by telephone and in writing within 24 hours or as soon thereafter as possible. Dr. McBride understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. Dr. McBride shall permit the monitoring physician full access to her medical practice, including but not limited to all patient information. The Board-approved monitor shall provide the Board with reports regarding Dr. McBride's medical practice every ninety (90) days following the commencement of probation. Dr. McBride shall not actively practice medicine until the Board

has approved a physician monitor pursuant to this provision.

(6) Maine Medical Professionals Health Program. Prior to her return to the active practice of medicine, Dr. McBride shall enroll in and successfully participate in the Maine Medical Professionals Health Program (MMPHP). In compliance with this condition, Dr. McBride shall ensure that the MMPHP provides the Board with reports regarding her compliance every three months following the commencement of probation.

(7) Medical Ethics and Boundaries Course. Dr. McBride shall, within Twelve (12) months following the commencement of probation enroll in and successfully complete a Board-approved course in medical ethics and boundaries. In compliance with this condition, Dr. McBride shall provide the Board with documentary proof of her successful completion of a Board-approved ethics and boundaries course within Twelve (12) months following the commencement of probation;

(8) Record Keeping Course. Dr. McBride shall, within Twelve (12) months following the commencement of probation enroll in and successfully complete a Board-approved course in medical record keeping. In compliance with this condition, Dr. McBride shall provide the Board with documentary proof of her successful completion of a Board-approved course in medical record keeping within Twelve (12) months following the commencement of probation;

(9) Opioid Prescribing Course. Dr. McBride shall, prior to her resumption of prescribing opioids for any patients, and in no event later than Twelve (12) months following the commencement of probation, enroll in and successfully complete a Board-approved course in opioid prescribing. In compliance with this condition, Dr. McBride shall provide the Board with documentary proof of her successful completion of a Board-approved course in opioid prescribing prior to prescribing any opioids for any patients, and in no event later than Twelve (12) months following the commencement of probation.

(10) Maintenance of Maine Medical License. Dr. McBride shall ensure that she files timely and complete applications to renew her Maine medical license on or before December 31, 2012, and thereafter biennially for the duration of her probation. In the event that Dr. McBride fails to renew her Maine medical license, the period of probation shall be tolled in accordance with paragraph 20 ("Duration of Consent Agreement") below.

16. WAIVER OF CONFIDENTIALITY AND RELEASE OF RECORDS.

Dr. McBride agrees and understands that the Board and the Department of

Attorney General shall have complete access to her present and future personal medical and counseling records regarding chemical dependency and/or mental health issues and to all otherwise confidential data pertaining to treatment or monitoring of Dr. McBride for substance abuse and/or mental health issues. Dr. McBride waives any privileges concerning such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board access to such information during the term of this Consent Agreement. All releases must, in addition to waiving any relevant State law privileges or immunities, provide the Board with access to all material covered by 42 C.F.R., Part 2. In the event that the releases are not sufficient to obtain access to any information which the Board considers relevant, Dr. McBride agrees to personally obtain such information and furnish it to the Board, to the extent permitted by law.

17. SANCTION FOR VIOLATION OF CONSENT AGREEMENT.

a. Automatic Suspension. Any reliable oral or written report to the Board of violation(s) of the terms and conditions of this Consent Agreement as described above by Dr. McBride shall result in the immediate, indefinite and automatic suspension of Dr. McBride's Maine medical license. The automatic suspension of Dr. McBride's Maine medical license shall become effective at the time that he receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means. The indefinite, automatic suspension shall continue until the Board holds a hearing on the matter, unless the Board earlier determines that the report is without merit or decides that no further sanction is warranted.

b. Continued Suspension; Other Sanctions. Dr. McBride's indefinite automatic suspension shall continue for such time until the Board holds a hearing and reaches a decision. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. McBride and the Board agree to hold the hearing later) and shall be held pursuant to the Maine Administrative Procedure Act. The Board may impose such other discipline, including without limitation, fines, further suspension, probation, non-renewal or revocation of licensure, as the Board after hearing deems appropriate.

c. General Acknowledgment. Dr. McBride acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), her failure to comply with any of the terms or conditions of this Consent Agreement shall constitute grounds for disciplinary action against her Maine medical license, including but not limited to an order issued by the Board, after hearing, modifying, suspending, or revoking her license. In addition, Dr. McBride agrees and acknowledges that, pursuant to 10 M.R.S.A. § 8003(5), the Board has the authority to suspend or revoke her Maine medical license for any violation of the terms or conditions of this Consent Agreement.

18. DESIGNATED COPY OF CONSENT AGREEMENT.

Dr. McBride shall have her supervising physician and physician monitor and all treatment providers read, date, and sign a copy of the Consent Agreement (the "Designated Copy"). Dr. McBride shall retain a copy of the Consent Agreement signed by all of the aforementioned individuals at her Board-approved medical practice locations and shall produce it upon request of the Board or its agent(s). A copy of the signature page shall be made and sent to the Board. Dr. McBride agrees that if new individuals assume the roles set forth in this Consent Agreement during the existence of this Consent Agreement, such individuals shall also read, date and sign the Consent Agreement, and she shall send a copy of the updated signature page to the Board.

Dr. McBride shall provide a copy of this Consent Agreement to any hospital or medical practice with whom she is or becomes affiliated.

19. MISCELLANEOUS PROVISIONS.

a. Notice. Unless otherwise specified in this Consent Agreement, written notice shall be deemed served upon mailing by first class mail, postage prepaid.

(i). Notice to the Board:

State of Maine Board of Licensure in Medicine  
Attention: Board Investigator  
137 State House Station  
Augusta, Maine 04333-0137  
Telephone: (207) 287-3601

(ii). Notice to the Licensee:

Elizabeth A. McBride, M.D.  
30 Cliff Road  
Northport, ME 04849

b. Address Change. If Dr. McBride changes jobs, moves her residence or practice, changes telephone numbers at work or at home, or secures privileges at a hospital, she shall provide written notice to the Board within ten (10) days of any such change. In addition, Dr. McBride shall notify the Board of any attempts to seek licensure in another jurisdiction, and shall disclose to the licensing authority in such jurisdiction of her status with this Board.

c. Costs. All costs incurred in performance of the conditions of this Consent Agreement shall be borne by Dr. McBride. If a violation of this Consent



Agreement is proven to have occurred, regardless of the sanctions imposed, the Board may require Dr. McBride to reimburse the Board for all actual costs and attorney's fees incurred in proving such violation.

d. Hearings. Unless otherwise specified, hearings shall be held consistent with the Maine Administrative Procedure Act.

e. Severance. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

20. DURATION OF CONSENT AGREEMENT.

Dr. McBride understands and agrees that the restrictions imposed upon her ability to prescribe controlled drugs for the treatment of chronic pain and her medical practice as described in paragraph 14 of this Consent Agreement are indefinite, until or unless this Consent Agreement is modified, amended or rescinded in writing by the parties hereto. Dr. McBride further understands and agrees that, apart from the restrictions described in paragraph 14 of this Consent Agreement, the period of probation of this Consent Agreement is five (5) years from the Board's receipt of:

- (i) A completed application for license renewal from Dr. McBride, which must be received by the Board on or before June 1, 2012; and
- (ii) A written notification that Dr. McBride has resumed the active practice of medicine.

The conditions of probation imposed by this Consent Agreement shall remain in effect for five (5) years until or unless:

- (i) They are amended or rescinded in writing by the parties hereto; or
- (ii) The Board receives information that Dr. McBride is no longer engaged in the active practice of medicine. Upon the Board's confirmation that Dr. McBride is not engaged in the active practice of medicine, the period of probation shall be tolled and not recommence until such time as the Board confirms that Dr. McBride is actively practicing medicine in the State of Maine; or
- (iii) Dr. McBride fails to renew her Maine medical license.

Upon Dr. McBride's successful completion of probation, the Board shall notify Dr. McBride in writing of the termination of her probation and conditions.

21. AMENDMENT OF CONSENT AGREEMENT.

Dr. McBride waives her right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. McBride agrees that this Consent Agreement is a final order resolving Complaint CR 10-471, and is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General. Requests for amendments to this Consent Agreement by Dr. McBride shall be made in writing and submitted to the Board. Dr. McBride shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the sole discretion to: (a) deny Dr. McBride's request; (b) grant Dr. McBride's request; and/or (c) grant Dr. McBride's request in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Dr. McBride's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

22. COMMUNICATIONS. The Board and the Attorney General may communicate and cooperate regarding Dr. McBride's practice or any other matter relating to this Consent Agreement.

23. PUBLIC RECORD. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

24. REPORTABLE DISCIPLINE. This Consent Agreement constitutes discipline/adverse licensing action and is reportable to the National Practitioner Data Bank, the Federation of State Medical Boards, and other licensing jurisdictions.

25. ADVICE OF COUNSEL. Dr. McBride has had an opportunity to consult with legal counsel regarding the terms and conditions of this Consent Agreement. Dr. McBride has been represented by Michael A. Duddy, Esq.

26. WAIVER OF RIGHT TO APPEAL CONSENT AGREEMENT.

Dr. McBride waives her right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Dr. McBride agrees that this Consent Agreement is a final order resolving Complaint CR 10-471, and that it is not appealable and is effective until modified or rescinded in writing by the parties hereto.

27. Dr. McBride acknowledges by her signature hereto that she has read this Consent Agreement, that she has had an opportunity to consult with an attorney before executing this Consent Agreement, that she executed this Consent Agreement of her own free will and that she agrees to abide by all terms and conditions set forth herein.

I, ELIZABETH A. MCBRIDE, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

Dated: 5/29/12

Elizabeth A. McBride MD  
ELIZABETH A. MCBRIDE, M.D.

STATE OF MAINE  
County of WALDO, S.S.

Personally appeared before me the above-named, Elizabeth A. McBride, M.D., and swore to the truth of the foregoing based upon her own personal knowledge, or upon information and belief, and so far as upon information and belief, she believes it to be true.

Dated: 5-29-12

Lauri E. McLean  
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: April 23, 2015  
LAURI E. McLEAN

Notary Public, Maine

My Commission Expires April 23, 2015

Dated: 6-4-2012

Michael A. Duddy  
MICHAEL A. DUDDY, ESQ.  
Attorney for Elizabeth A. McBride, M.D.

STATE OF MAINE BOARD OF  
LICENSURE IN MEDICINE

Dated:

6/19/12

Gary R. Hatfield MD  
GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF ATTORNEY GENERAL

Dated: 6/21/12



DENNIS E. SMITH  
Assistant Attorney General

Effective Date: 6/21/12

## APPENDIX B

### STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

In re: )  
Patrick S. Carson, P.A.-C ) CONSENT AGREEMENT  
Complaint No. CR11-509 )

This document is a Consent Agreement for Conditional Licensure,<sup>1</sup> effective when signed by all parties, regarding disciplinary action against and modifications to and conditions imposed upon the license to practice as a physician assistant in the State of Maine issued to Patrick S. Carson, P.A.-C. The parties to the Consent Agreement are: Patrick S. Carson, P.A.-C ("Mr. Carson"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General ("the Attorney General"). This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

#### STATEMENT OF FACTS

1. Mr. Carson has held a license to practice as a physician assistant in the State of Maine since October 20, 1995.
2. On September 13, 2011, the Board reviewed information from the Maine Medical Professionals Health Program (MPHP) received August 25, 2011. According to the MPHP, Mr. Carson had a urine test positive for Ethyl Glucuronide, a metabolite of alcohol. Mr. Carson indicated to the MPHP that his ingestion of alcohol was accidental. As a result, the MPHP decided to increase the frequency of Mr. Carson's urine testing. The Board took no further action on this information at that time.
3. On November 4, 2011, the Board received another letter from the MPHP notifying it that on October 14, 2011, Mr. Carson had a blood test positive for Phosphatidyl Ethanol, a metabolite of alcohol. In addition, the MPHP indicated that Mr. Carson had admitted to relapse and had used alcohol while on vacation. As a result, the MPHP increased the frequency of Mr. Carson's testing, the frequency of his attendance at counseling, AA and Caduceus meetings. According to the MPHP, Mr. Carson posed no risk to the safety of patients and was in full remission.
4. On December 13, 2011, the Board reviewed the November 2011 letter from the MPHP and voted to initiate a complaint, pursuant to 32 M.R.S. § 3282-A, against Mr. Carson's Maine physician assistant license. The Board docketed the complaint as CR11-509, and sent it to Mr. Carson for reply.
5. On or about February 28, 2012, the Board received a response from Mr.

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<sup>1</sup> Nothing in this Consent Agreement should be construed as a restriction on Mr. Carson's ability to practice within the scope of his license. Mr. Carson retains the ability to practice at the full clinical practice level of his license.

Carson to complaint CR11-509. In his response, Mr. Carson admitted that he had relapsed to the use of alcohol in violation of his contract with the MPHP, and apologized to the Board. In addition, Mr. Carson indicated that he understood the Board's duty to protect the public, and that so long as he is in remission he does not pose a threat to the safety of the public. In addition to Mr. Carson's written response, the Board received positive letters from Mr. Carson's counselor, and Mr. Carson's supervising physician each of whom attested to his commitment to recovery and dedication to the medical profession.

6. On March 13, 2012, the Board reviewed complaint CR11-509. Following its review, the Board voted to schedule the complaint for an adjudicatory hearing. In addition, the Board authorized its legal counsel to negotiate a consent agreement to resolve complaint CR11-509 without hearing.

7. Absent Mr. Carson's acceptance of this Consent Agreement by signing and dating it in front of a notary and returning it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before June 11, 2012, the matter shall be scheduled for an adjudicatory hearing at a later date.

8. By signing this Consent Agreement, Mr. Carson waives, in his personal capacity and through legal counsel, any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification. Mr. Carson waives, in his personal capacity and through legal counsel, forever any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

#### COVENANTS

9. Mr. Carson admits, based upon the evidence in possession of the Board that with regard to complaint CR11-509, the Board has sufficient evidence from which it could reasonably find that Mr. Carson engaged in unprofessional conduct in violation of violated 32 M.R.S. § 3282-A(2)(F). Mr. Carson acknowledges that such conduct would constitute grounds for discipline of his Maine physician assistant license.

#### DISCIPLINE/CONDITIONS OF LICENSURE

10. In light of the admissions in paragraph 9 above, as well as Mr. Carson's acceptance of responsibility, his efforts to seek treatment and his commitment to refrain from the use of alcohol and to maintain a healthy and continuous recovery, the Board agrees to impose and Mr. Carson agrees to accept the following discipline:

a. Pay a FINE of Two Thousand Dollars and Zero Cents (\$2,000.00). However, payment of the fine is suspended so long as Mr. Carson complies with all of the terms and conditions of this Consent Agreement, including all of the reporting requirements. Mr. Carson agrees that, in the event that he fails to meet any of the reporting or other time requirements set out in this Consent Agreement (without having requested an extension prior to the due date and having that request granted by the Board or Board staff), the Board may, in its sole discretion,

summarily and without an adjudicatory hearing, "activate" any or all of the amount of the suspended fine. The Board shall notify Mr. Carson in writing of the activation of all or a portion of the suspended fine. Mr. Carson agrees and understands that he must pay the amount of the fine "activated" by the Board within 30 days of receiving notice that the fine was activated. Payment shall be by cashier's check or money order made out to "Treasurer, State of Maine." In addition, the parties agree and understand that the Board's decision not to "activate" all or a portion of the suspended fine for one instance of noncompliance with a reporting or other time requirement does not constitute a waiver of the Board's right to "activate" all or a portion of the fine regarding a subsequent instance of non-compliance. If Mr. Carson fails to pay an "activated" fine within the 30 days as provided by this section, the Board may "activate" all or a portion of the remaining portion of the "suspended" fine. Any decision by the Board pursuant to this section does not require an adjudicatory hearing and is non-appealable.

b. A CONDITIONAL LICENSE for five (5) years with the following conditions, which shall remain in place for five (5) years following the execution<sup>2</sup> of this Consent Agreement unless this Consent Agreement is first amended or rescinded in writing by agreement of all of the parties hereto:

(1). ABSTINENCE. Mr. Carson agrees that, following the execution of this Consent Agreement, he shall completely abstain from the use of any and all Prohibited Substances except drugs that are dispensed or prescribed by a single primary care physician pursuant to paragraph 10(b)(4)(c) of this Consent Agreement or drugs that are dispensed or prescribed under circumstances that constitute a genuine medical or surgical emergency. "Prohibited Substances" as used throughout this Consent Agreement shall mean all controlled substances (i.e. benzodiazepines; sedatives; hypnotics or similar drugs; opiates), alcohol, and all mood and/or consciousness or mind-altering substances, whether illicit or not.

(a). Prescription Medication. If any controlled drug is dispensed or prescribed for Mr. Carson for a personal medical condition, Mr. Carson or the Supervising Physician shall notify the Board by telephone and in writing within 48 hours or as soon thereafter as possible. This notice shall be followed by a written summary of all pertinent circumstances. In the event that Mr. Carson's primary care physician prescribes a controlled drug medication for him that is to be taken on an ongoing basis, Mr. Carson shall submit a monthly written report to the Board that appraises the Board of the circumstances regarding the use of the prescribed controlled drug medication.

(b). Future Use of Prohibited Substances Shall Result in Loss of Licensure. Mr. Carson agrees and understands that any reliable evidence of his use at any time in the future, whether in Maine or elsewhere, of any Prohibited Substance shall constitute a violation of this Consent Agreement, which SHALL RESULT IN THE IMMEDIATE, INDEFINITE AUTOMATIC SUSPENSION OF LICENSURE, AND PROOF OF USE MAY RESULT IN PERMANENT REVOCATION OF LICENSURE.

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<sup>2</sup> For the purpose of this Consent Agreement the term "execution" means the date on which the final signature is affixed to this Consent Agreement.

(2). SINGLE MEDICAL PROVIDER.<sup>3</sup> Mr. Carson agrees and understands that, with the sole exception of medications permitted by the Board to be prescribed to him by his Board-approved treating medical provider, he shall only obtain prescription medication(s) from a single primary care treatment provider approved by the Board pursuant to paragraph 10(b)(4)(c) below. Mr. Carson agrees and understands that he will not make any unilateral changes to the medication regimen prescribed for him by his Board approved primary care physician. In addition, Mr. Carson agrees that any and all prescriptions for medications that are prescribed to him by his Board-approved primary care treatment provider shall be filled by him at a pharmacy approved by the Board. Mr. Carson agrees and understands that the Board and the Department of Attorney General shall have an irrevocable right during the duration of this Consent Agreement to access any and all documents and records generated by any pharmacy in connection with Mr. Carson's compliance under this Consent Agreement. Mr. Carson waives any privileges concerning such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board to access such information.

(3). SUBSTANCE MONITORING.<sup>4</sup> Mr. Carson understands and agrees that, for the duration of this Consent Agreement, he will undergo some level of substance monitoring to test whether he has used a Prohibited Substance. The monitoring shall be through urinalysis testing and/or blood testing, and any other reliable method which may later be developed and approved by the Board. Mr. Carson irrevocably agrees that the Board and the Maine Department of Attorney General will have full access to all test data and reports. Mr. Carson shall execute any and all releases necessary for the Board and/or the Attorney General to have full access to all data and reports pertaining to his substance monitoring.

(a). Supervising Physician. Mr. Carson shall propose a Supervising Physician (the "Supervising Physician"), who shall be approved by the Board who shall have Mr. Carson provide urine samples for testing for the presence of Prohibited Substances. Under no circumstances shall Mr. Carson fail to appear and/or provide a urine sample for testing as required by this Consent Agreement.

(b). Process. All urine and/or blood samples shall be handled through legal chain of custody methods. All samples provided shall be analyzed by a certified laboratory, which regularly handles drug monitoring tests. All samples shall be tested for the presence of Prohibited Substances, specifically including but not limited to alcohol and opiates).

(c). Frequency of Urine Testing. It is Mr. Carson's obligation to ensure that all the samples are given and tests occur as specified in this Consent Agreement. Testing shall be randomly scheduled. Notwithstanding any other provision of this Consent Agreement, the Board, the Supervising Physician, or the Board's agent may request Mr. Carson to submit to testing at any time. Failure to maintain this schedule or the random nature of the tests shall be cause for suspension, non-renewal or revocation of Mr. Carson's Maine medical license, unless proof of genuine emergent medical circumstances (for Mr. Carson or a patient)

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<sup>3</sup> The medical provider approved by the Board may be a physician, physician assistant or advanced nurse practitioner.

<sup>4</sup> The substance abuse monitoring pursuant to this Consent Agreement may, at the approval of the Board, be performed by the Medical Professionals Health Program.



exist which warrant less serious disciplinary actions being taken by the Board. For the indefinite period following the execution of this Consent Agreement, Mr. Carson shall provide urine samples for testing for the presence of Prohibited Substances at least once a week.

(d). Reporting Test Results. It is Mr. Carson's responsibility to ensure that all test results are reported promptly to the Board.

(i). Immediate Report of Positive Test Results. Any test result evidencing any level of a Prohibited Substance, whether by urine or other sample, shall be reported to the Board by telephone and in writing within 24 hours or as soon thereafter as possible.

(ii). Reporting Negative Test Results. Written reports of all tests shall be sent to the Board monthly, together with an explanation of the dates and times samples were provided and tests made, the type(s) of tests made, and the substances tested for (together with detectable levels tested for), and the test results. Mr. Carson shall ensure that all reports are made to the Board in a timely fashion.

(iii). Confidentiality Waived. With regard to the Board and its agents and any process to be pursued by the Board, Mr. Carson hereby waives all claims of confidentiality and privilege with respect to all tests taken and test results pursuant to this Consent Agreement. Mr. Carson shall execute any and all releases in order for the Board to obtain access to and copies of all urine test results.

(e). Rebuttable Presumption Raised by Positive Test. It is agreed and understood that a test evidencing the presence of any Prohibited Substance, shall raise a rebuttable presumption that such substance was in fact used by Mr. Carson. Such a positive test result shall alone, including any test result showing the presence of ethyl glucuronide, ethyl sulfate, or phosphatidyl ethanol, be sufficient to prove the use of the Prohibited Substance by Mr. Carson. Mr. Carson further agrees that the result of the test may be admitted into evidence in any proceeding regarding his Maine physician assistant license, whether before the Board or before a Court of competent jurisdiction. Mr. Carson is hereby advised that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, Mr. Carson agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies during the period of probation. In the event that Mr. Carson has a positive screen for morphine, opiates and/or alcohol, Mr. Carson agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter cough or cold medicines shall not constitute a defense to such a positive screen.

(f). Immediate, Indefinite, Automatic Suspension for Positive Test. If any urine or blood test is positive (i.e., in any manner evidences any use of any Prohibited Substance – including a positive result for the presence of ethyl glucuronide, ethyl sulfate, or phosphatidyl ethanol), then the result shall be the immediate, indefinite, automatic suspension of Mr. Carson's Maine physician assistant's license, which shall continue until the

Board holds a hearing on the matter, unless the Board, or the Board Secretary and the Department of Attorney General, earlier determine that the report is without merit. The suspension shall become effective at the time that Mr. Carson receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means.

(g). Board Hearing to Determine if Mr. Carson Used Any Prohibited Substance. After receiving a positive report evidencing use by Mr. Carson of any Prohibited Substance, the Board shall investigate the situation, including demanding a response from Mr. Carson. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Mr. Carson and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.

(h). Failure to Maintain Sampling Schedule or Failure to Appear or to Provide Sample. Failure by Mr. Carson: to maintain the sampling schedule; to appear when demanded to provide a sample; or to provide samples upon being demanded to do so shall be dealt with as follows:

(i). Report. If Mr. Carson fails to appear to provide a sample, fails to maintain the sampling/testing schedule, or fails to provide a urine sample, then the Supervising Physician and Mr. Carson must telephone the Board as soon as possible and send to the Board a written report of such failure within 48 hours.

(ii). Second Opportunity to Provide Urine Sample. If Mr. Carson appears when scheduled or ordered, but fails to provide an adequate sample, then with regard to urine, after accurate notation of any and all substances consumed (no substance shall be consumed which might affect the accuracy of the tests to be performed), a second opportunity to provide a urine sample shall be given after a reasonable time. A repeat failure or any refusal shall result in an immediate, indefinite suspension of medical licensure. The suspension shall begin the moment of the occurrence.

(iii). Suspension. An immediate, indefinite suspension of licensure shall result from any failure by Mr. Carson to comply with the mandated schedule of samples, failing to appear to provide a sample, or failing to provide a urine sample after given a second opportunity. The suspension shall begin the moment Mr. Carson actually learns a report has been made or sent to the Board.

(iv). Meeting with Board. Both Mr. Carson and the Supervising Physician shall, at the discretion of the Board, be required to appear before the Board regarding this situation at its next regularly scheduled Board meeting, unless the next meeting is to be held within 15 days of the suspension, in which case they may be scheduled to appear at the subsequent regularly scheduled Board meeting.

(v). Board Action. The Board may order Mr. Carson's Maine medical license reinstated or, if appropriate, may continue the suspension and may set the matter for hearing. The Board shall attempt to hold a hearing within 60 days of the automatic

suspension, or as soon thereafter as practicable, at which time it may take such action as it deems appropriate, including without limitation, reinstatement, fines, probation, suspension, non-renewal and revocation.

(i). Amendment of Testing Provisions. After one (1) year of successful compliance with the terms and conditions of this Consent Agreement, Mr. Carson may file a written application with the Board to amend the testing conditions. Upon written application by Mr. Carson to the Board, the Board may amend the above agreed conditions for testing. Amendment of the testing conditions shall be in the sole discretion of the Board and shall be based upon such information as the Board deems pertinent. A decision regarding the amendment of testing provisions may be made by the Board, in its sole discretion, with or without providing a hearing. Any decision by the Board regarding a request to amend the testing conditions is not appealable. The Board can propose Amendment(s), which may or may not be agreed to by Mr. Carson.

(j). Increasing Testing. For good cause shown (i.e., questionable reports or problems with providing samples), the Board can, in its sole discretion, without hearing, unilaterally increase the frequency of testing to the highest levels contemplated by this Consent Agreement, and may also add an additional four random tests per month. Any decision made by the Board pursuant to this paragraph does not require a hearing and is not appealable.

(4). PROFESSIONAL MANAGEMENT.

(a). Substance Abuse Treatment. Within thirty (30) days following the execution of this Consent Agreement, Mr. Carson shall submit for Board approval the name of a licensed individual or agency in the treatment of substance abuse with whom Mr. Carson shall consult and counsel for the purpose of working on all issues pertaining to his substance abuse issues, including Mr. Carson's compliance with this Consent Agreement, which consultations shall be at least once every two weeks following the execution of this Consent Agreement.

(b). Mental Health Treatment. Within thirty (30) days following the execution of this Consent Agreement, Mr. Carson shall submit for Board approval the name of a licensed individual or agency in the treatment of mental health issues with whom Mr. Carson shall consult and counsel for the purpose of working on all issues pertaining to his mental health issues. The Board in its discretion may approve the same individual approved by the Board to provide Mr. Carson with substance abuse treatment to provide him with mental health treatment pursuant to this paragraph. The therapy sessions shall occur at least monthly and continue until the therapist notifies the Board that treatment is no longer necessary or useful.<sup>5</sup> The Board, in its sole discretion, will determine whether cessation of therapy is

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<sup>5</sup> Mr. Carson may work with one licensed individual to receive both his substance abuse and mental health treatment if the licensed individual is approved by the Board. As long as the licensed individual provides substance abuse and mental health treatment to Mr. Carson, his treatment requirements pursuant to this Consent Agreement shall be satisfied by two monthly sessions.

appropriate. Mr. Carson acknowledges that any decision by the Board concerning this issue is not appealable.

(c). Single Primary Care Medical Provider. Within thirty (30) days following the execution of this Consent Agreement, Mr. Carson shall submit for Board approval the name of a primary care medical provider who shall prescribe all necessary medications for Mr. Carson, and who shall coordinate Mr. Carson's treatment and pharmacological therapy with the Board-approved substance abuse and psychological providers. Such physician shall be knowledgeable of Mr. Carson's medical history, including his substance abuse history. The Board shall retain the sole discretion, without hearing, to grant or deny approval of the primary care medical provider proposed by Mr. Carson. Mr. Carson acknowledges that any decision by the Board concerning this issue is not appealable.

(d). Prior Evaluation and Treatment Records. The Board and Mr. Carson agree that Mr. Carson shall execute all releases necessary to permit the transmission and disclosure of all records from previous treatment providers to the Board approved primary care physician and Board-approved treatment provider(s).

(e). Communication of Treatment Providers. The Board and Mr. Carson agree that all treatment providers involved in his care shall have full communication allowed among themselves, any prior treatment providers and, when requested, with the Board or its agent(s). Mr. Carson waives any privileges concerning such information, reports, records, and communications among his treatment providers and the Board.

(f). Amendment of Aftercare Treatment Requirements. After one (1) year of successful compliance with the terms and conditions of this Consent Agreement, Mr. Carson may file a written application with the Board to amend his substance abuse treatment. The Board shall retain the sole discretion, without hearing, to grant or deny such application. Mr. Carson acknowledges that any decision by the Board concerning this issue is not appealable.

(g). Change of Primary Care Treatment Provider(s). If Mr. Carson desires to change his primary care provider or treatment provider(s), then he shall make written application to the Board, including among other things a letter regarding his reasons for requesting such change(s) and separate letters from the current primary care treatment provider(s) and the proposed new primary care treatment provider(s) relative to their understanding of the reasons for this request and, to the extent applicable, any concerns they may have. The Board shall retain the sole discretion to grant or deny such application without hearing. Mr. Carson acknowledges that any decision by the Board concerning this issue is not appealable. If the request is denied, nothing precludes Mr. Carson from proposing another primary care treatment provider for approval. In requesting a change of primary care treatment provider, Mr. Carson understands that the Board may inquire into any issues it deems pertinent with any person, including, without limitation, the current primary care or treatment provider(s).

(h). Reports from Treatment Providers. Mr. Carson shall ensure that on or before September 9<sup>th</sup>, December 9<sup>th</sup>, March 9<sup>th</sup> and June 9<sup>th</sup> of each year

following the execution of this Consent Agreement the Board-approved treatment provider(s) submit(s) to the Board a written report regarding: Mr. Carson's compliance with his schedule of meetings; Mr. Carson's ability to continue practicing medicine; and the prognosis of Mr. Carson's continued recovery. In addition, the treatment providers shall immediately notify the Board in writing whenever: (1) in his/her professional judgment, Mr. Carson poses a potential danger to the health, safety and welfare of patients; or (2) Mr. Carson terminates treatment or is non-compliant with the treatment plan. Mr. Carson hereby waives any privileges concerning such information, reports, records and disclosures to the Board.

(i). Board Investigation. At any time the Board may deem appropriate, the Board or its agent may contact Mr. Carson and/or the Board-approved treatment providers to obtain further information relative to Mr. Carson. In addition, if the Board deems it appropriate, it may directly contact the treatment providers regarding any issues concerning Mr. Carson's treatment. In complying with this requirement, Mr. Carson waives any privileges concerning such information, reports, records and disclosures to the Board. Mr. Carson shall execute any and all releases necessary to enable the Board and/or the Attorney General to communicate directly with his treatment provider(s) and to obtain copies of any and all notes, records, and documentation concerning his treatment.

(5). PROFESSIONAL OVERSIGHT.

(a). Clinical Setting Inspections. During the period of probation, Mr. Carson shall provide the Board with all locations where he practices. In addition, Mr. Carson shall permit the Board or its agents to conduct announced and/or unannounced inspections of all locations where he practices. Mr. Carson shall reimburse the Board for any actual costs incurred as a result of any inspection performed pursuant to this section.

(b). Physician Monitor. Within thirty (30) days following the execution of this Consent Agreement, Mr. Carson must have a Board-approved physician monitor who shall monitor his practice and a temporary monitor(s)<sup>6</sup> if the monitor physician is unavailable. In complying with this requirement, Mr. Carson shall submit to the Board for its approval the name of a proposed physician monitor, and the name(s) of any proposed temporary monitor(s) whom the Board has the sole discretion to approve or deny. The physician monitor or the temporary monitor(s) must be in the direct physical presence of Mr. Carson and observe him within his medical practice at least 80% of the total number of days Mr. Carson works each month, and shall inform the Board if Mr. Carson demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, ability to concentrate, absenteeism, drug abuse, incompetence, unprofessionalism or any other concerns.<sup>7</sup> If a report to the Board is required, the physician monitor or the temporary monitor(s) shall report such information to the Board by telephone and in writing within 24 hours or as soon thereafter as possible. In the event that the physician monitor is on vacation or will not otherwise be at the practice four days during a five-day work week, Mr. Carson will provide advanced written notice to the Board and the

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<sup>6</sup> Although the temporary monitor(s) must be approved by the Board, the temporary monitor(s) does/do not have to be a physician(s).

<sup>7</sup> Nothing in this paragraph is intended to require the constant and direct supervision by the physician/temporary monitor(s).

MPHP regarding the dates on which the physician monitor will be on vacation or otherwise away. Mr. Carson understands that the physician monitor and/or temporary monitor(s) are agents of the Board pursuant to Title 24 M.R.S. § 2511. Mr. Carson shall permit the physician monitor and/or temporary monitor(s) full access to his medical practice, including but not limited to all patient information. The Board-approved physician monitor shall provide the Board with reports regarding Mr. Carson's medical practice on or before September 9<sup>th</sup>, December 9<sup>th</sup>, March 9<sup>th</sup> and June 9<sup>th</sup> of each year following the execution of this Consent Agreement.

(6). SELF-HELP GROUP MEETINGS.

(a). Attendance at AA and NA. Mr. Carson agrees to attend Alcoholics Anonymous ("AA") and/or Narcotic Anonymous ("NA") or another non-faith-based self-help group meeting approved by the Board a minimum of twice per week from the effective date of this Consent Agreement.

(b). Impaired Physicians Self-Help Group. In addition to the AA/NA attendance requirement, Mr. Carson agrees that he shall attend self-help group meetings of an impaired medical professional group (*i.e.* Caduceus), on a regular basis for the term of this Consent Agreement.

(c). Reports of Attendance. Mr. Carson shall submit a signed, written quarterly report of his attendance at AA, NA or impaired professional self-help group meetings to the Board on or before September 9<sup>th</sup>, December 9<sup>th</sup>, March 9<sup>th</sup> and June 9<sup>th</sup> of each year following the execution of this Consent Agreement. Any instances of failure to attend the required numbers of meetings shall be noted, together with specific explanation detailing reasons.

(d). Failure to Meet This Requirement. It is the parties' understanding that, periodically, reasonable explanations may exist for occasionally missing a meeting; however, unexcused continuous or repeated failures to comply with the requirements of this section shall constitute a violation of the Consent Agreement which, after hearing before the Board, can result in licensure discipline, including without limitation a fine, suspension, non-renewal, or revocation of Mr. Carson's Maine medical license.

(7) MAINTENANCE OF OBLIGATIONS WHEN AWAY

(a). General. Mr. Carson agrees to maintain his obligations regarding substance monitoring and self-help group meetings at all times, including times when he is away from home but within the territorial limits of the United States. Mr. Carson will notify the Director of the Medical Professionals Health Program sufficiently in advance of travel to make whatever arrangements the Director deems appropriate for monitoring before he leaves. It shall be Mr. Carson's obligation to ensure that arrangements are made consistent with this Consent Agreement in such other location(s) to ensure the continuation and satisfaction of his obligations under this Consent Agreement. Any such occurrences shall be noted in writing sent to the Board by Mr. Carson explaining the arrangements made and how the arrangements were carried out.

(b). Failure to Comply. Any failure by Mr. Carson to meet the conditions of the Consent Agreement outside of Maine shall constitute a violation of this Consent Agreement, and may result in the immediate suspension by the Board of Mr. Carson's Maine physician assistant license pending hearing, and, following hearing, other sanctions as permitted by law including but not limited to suspension, modification, or revocation of licensure.

(8). INVOLVEMENT IN THE MAINE MEDICAL PROFESSIONALS HEALTH PROGRAM.

Mr. Carson has entered into a contract with the Maine Medical Professionals Health Program and shall fully and successfully participate in that program as long as this Consent Agreement remains in force.

(9). MAINTAINENCE OF LICENSE.

Mr. Carson shall be required to maintain his Maine physician assistant license for as long as this Consent Agreement remains in effect. In the event that Mr. Carson applies for licensure in other jurisdictions during the term of this Consent Agreement, Mr. Carson shall notify said jurisdiction of the existence of this Consent Agreement.

(10). WAIVER OF CONFIDENTIALITY AND RELEASE OF RECORDS.

Mr. Carson agrees and understands that the Board and the Department of Attorney General shall have complete access to his present and future personal medical and counseling records regarding chemical dependency and mental health issues and to all otherwise confidential data pertaining to treatment or monitoring of Mr. Carson for substance abuse and mental health issues. Mr. Carson waives any privileges concerning such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board access to such information. All releases must, in addition to waiving any relevant State law privileges or immunities, provide the Board with access to all material covered by 42 C.F.R., Part 2. In the event that the releases are not sufficient to obtain access to any information which the Board considers relevant, Mr. Carson agrees to personally obtain such information and furnish it to the Board, to the extent permitted by law.

9. SANCTION FOR VIOLATION OF CONSENT AGREEMENT.

a. Automatic Suspension. Any reliable oral or written report to the Board of violation(s) of the terms and conditions of this Consent Agreement as described above by Mr. Carson shall result in the immediate, indefinite and automatic suspension of Mr. Carson's physician assistant license. The automatic suspension of Mr. Carson's Maine physician assistant license shall become effective at the time that he receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means. The indefinite,

automatic suspension shall continue until the Board holds a hearing on the matter, unless the Board earlier determines that the report is without merit or decides that no further sanction is warranted.

b. Continued Suspension; Other Sanctions. Mr. Carson's indefinite automatic license suspension shall continue for such time until the Board holds a hearing and reaches a decision. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Mr. Carson and the Board agree to hold the hearing later) and shall be held pursuant to the Maine Administrative Procedure Act. The Board may impose such other discipline, including without limitation, fines, further suspension, probation, non-renewal or revocation of licensure, as the Board after hearing deems appropriate.

c. General Acknowledgment. Mr. Carson acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), his failure to comply with any of the terms or conditions of this Consent Agreement shall constitute grounds for disciplinary action against his Maine physician assistant license, including but not limited to an order issued by the Board, after hearing, modifying, suspending, or revoking his license. Mr. Carson also acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(A-1), the Board has the authority to suspend or revoke his license in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

#### 10. DESIGNATED COPY OF CONSENT AGREEMENT.

Mr. Carson shall have his supervising physician, physician monitor, temporary monitor(s), and all treatment providers read, date, and sign a copy of the Consent Agreement (the "Designated Copy"). Mr. Carson shall retain a copy of the Consent Agreement signed by all of the aforementioned individuals at his medical practice locations and shall produce it upon request of the Board or its agent(s). A copy of the signature page shall be made and sent to the Board. Mr. Carson agrees that if new individuals assume the roles set forth in this Consent Agreement during the existence of this Consent Agreement, such individuals shall also read, date and sign the Consent Agreement, and he shall send a copy of the updated signature page to the Board.

Mr. Carson shall provide a copy of this Consent Agreement to any hospital or medical practice with whom he is or becomes affiliated.

#### 11. MISCELLANEOUS PROVISIONS.

a. Notice. Unless otherwise specified in this Consent Agreement, written notice shall be deemed served upon mailing by first class mail, postage prepaid.

##### (i). Notice to the Board:

State of Maine Board of Licensure in Medicine  
Attention: Board Investigator  
137 State House Station  
Augusta, Maine 04333-0137  
Telephone: (207) 287-3601



(ii). Notice to the Licensee:

Patrick Carson, P.A.-C  
13 Anchorage Place  
South Portland, ME 04106

b. Address Change. If Mr. Carson changes jobs, moves his residence or practice, changes telephone numbers at work or at home, or secures privileges at a hospital, he shall provide written notice to the Board within ten (10) days of any such change. In addition, Mr. Carson shall notify the Board of any attempts to seek licensure in another jurisdiction, and shall disclose to the licensing authority in such jurisdiction his status with this Board.

c. Costs. All costs incurred in performance of the conditions of this Consent Agreement shall be borne by Mr. Carson. If a violation of this Consent Agreement is proven to have occurred, regardless of the sanctions imposed, the Board may require Mr. Carson to reimburse the Board for all actual costs and attorney's fees incurred in proving such violation.

d. Hearings. Unless otherwise specified, hearings shall be held consistent with the Maine Administrative Procedure Act.

e. Severance. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

12. DURATION OF CONSENT AGREEMENT.

Mr. Carson understands and agrees that the duration of this Consent Agreement is five (5) years from its execution. The conditional license and license conditions imposed by this Consent Agreement shall remain in effect for five (5) years following the execution of this Consent Agreement until or unless amended or rescinded in writing by the parties hereto.

13. AMENDMENT OF CONSENT AGREEMENT.

Mr. Carson waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Mr. Carson agrees that this Consent Agreement is a final order resolving complaint CR11-509, and is not appealable and is effective until modified or rescinded in writing by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General. Requests for amendments to this Consent Agreement by Mr. Carson shall be made in writing and submitted to the Board. Mr. Carson shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the sole discretion to: (a) deny Mr. Carson's request; (b) grant Mr. Carson's request; and/or (c) grant Mr. Carson's request in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Mr. Carson's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

14. COMMUNICATIONS. The Board and the Attorney General may communicate and cooperate regarding Mr. Carson's practice or any other matter relating to this Consent Agreement.

15. PUBLIC RECORD. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

16. REPORTABLE DISCIPLINE. This Consent Agreement constitutes disciplinary action, and is reportable to the National Practitioner Data Bank, the Federation of State Medical Boards, and other licensing jurisdictions.

17. ADVICE OF COUNSEL. Mr. Carson has been had an opportunity to consult with legal counsel regarding the terms and conditions of this Consent Agreement. Mr. Carson has been represented by Kenneth W. Lehman, Esq.

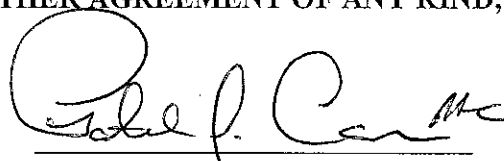
18. WAIVER OF RIGHT TO APPEAL CONSENT AGREEMENT.

Mr. Carson waives his right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Mr. Carson agrees that this Consent Agreement is a final order resolving complaint CR11-509, and that it is not appealable and is effective until modified or rescinded in writing by the parties hereto.

**I, PATRICK S. CARSON, P.A.-C, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS CONSENT AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I HAVE HAD AN OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL REGARDING THIS CONSENT AGREEMENT. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.**

DATED:

6/8/12

  
PATRICK S. CARSON, P.A.-C

STATE OF Maine  
Cumberland, S.S.

Personally appeared before me the above-named Patrick Carson, P.A.-C, and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED:

6/18/12



**SUSAN M. POWERS**  
NOTARY PUBLIC - MAINE  
MY COMMISSION EXPIRES  
APRIL 14, 2019

Susan M. Powers  
NOTARY PUBLIC/ATTORNEY  
COMMISSION ENDS: 4/14/19

DATED:

6/8/12

Kenneth W. Lehman / AAE  
KENNETH W. LEHMAN, ESQ.  
Attorney for Patrick Carson, P.A.-C

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED:

6/12/12

Gary R. Hatfield  
GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED:

6/12/12

Dennis E. Smith  
DENNIS E. SMITH  
Assistant Attorney General

Effective Date: 6/12/12